

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

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In Re:) Case No. 19-30088
) Chapter 11
PG&E CORPORATION AND PACIFIC)
GAS AND ELECTRIC COMPANY) San Francisco, California
) Wednesday, August 7, 2019
Debtor.) 9:30 AM
)
MOTION OF THE OFFICIAL
COMMITTEE OF TORT CLAIMANTS
TO COMPEL PRODUCTION OF
THIRD-PARTY CONTRACTOR
DOCUMENTS

STATUS CONFERENCE RE
DISCOVERY

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DENNIS MONTALI
UNITED STATES BANKRUPTCY JUDGE

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SAN FRANCISCO, CALIFORNIA, WEDNESDAY, AUGUST 7, 2019, 9:32 AM

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(Call to order of the Court.)

THE CLERK: Court is now in session, the Honorable
Dennis Montali presiding. The matter of PG&E Corporation.

THE COURT: All right, good morning, counsel on the
phone. I thought, with my invitation for a phone conference,
that somebody would come to court, but here I have an empty
courtroom, so what a cha -- what a deal.

Let me just double-check if my four invited guests are
on the call.

Mr. Julian, are you there?

MR. JULIAN: Yes, Your Honor. And with me are
Kimberly Morris and Kody Kleber, who are hand -- who are
handling the discovery issues since they arose.

THE COURT: Okay, and Mr. Fuller, are you with us?

MR. FULLER: Yes, Your Honor. Good morning.

THE COURT: Good morning.

And Mr. Karotkin?

Mr. Karotkin on the call?

No? How about Mr. Orsini?

Well, that's not encouraging, those are the two people
I wanted on the phone. I have Mr. Orsini's name on the call
list. Our -- is anyone from Mr. Orsini's firm on the call?

Hm. Well, this is going to be a quick hearing.

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1 Mr. Julian, have you been in touch with either -- or
2 particularly Mr. Orsini about the discovery issues?

3 MR. ORSINI: Hello, Your Honor?

4 THE COURT: Yeah. Hello?

5 MR. ORSINI: Is anyone here?

6 THE COURT: All right, let's try again. Who was that
7 who just spoke up? Was that Mr. Orsini?

8 MR. ORSINI: It is, Your Honor. I don't know why you
9 were unable to hear me the first couple of times
10 (indiscernible) my line, I apologize --

11 THE COURT: Okay.

12 MR. ORSINI: -- but I am here.

13 THE COURT: How about Mr. Karotkin?

14 No? Well, okay. Well, all right. I wanted -- the
15 reason I asked Mr. Julian and Mr. Orsini, you were the
16 principal counsel that were sort of in point position on these
17 discovery issues. I realize that both of you are supported by
18 lots of other lawyers or nonlawyers and, again, my purpose
19 isn't to do anything other than to try to get the word out.

20 So let me just run through a short list of things, and
21 then I'll see what I want to hear from any of you and any of
22 the other counsel on the phone. There were a number of items
23 on my list. The first one, there was, just again, one of these
24 miscommunications that I want to avoid going forward. The TCC
25 filed a motion to compel regarding third-party documents on

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1 July 25th, and somehow it managed to get on the August 9th
2 calendar before there was even a request for shortened time, or
3 maybe that it was at the same time, and I was not that
4 interested in having things on that August 9th calendar
5 because, first of all, I have other matters, non PG&E matters,
6 and that -- and then, secondly, that was the specific date
7 reserved for any report back from CPUC and the Governor's
8 Office and the continued hearing on the two contested motions
9 pertaining to compensation matter. And so I just didn't want
10 it to get on with the discovery -- any discovery issues,
11 because of the congestions.

12 And so that's why, on the 29th of July, I issued the
13 order that led to today's hearing, and said I would take up
14 that motion to compel today, August 7th. Well, the very next
15 day, the TCC set that motion to compel regarding third-party
16 documents out to the end of August on the 27th, and I'm
17 wondering: did they --

18 Wait, I have a correction here.

19 What?

20 (Court and clerk confer.)

21 THE COURT: Okay. Okay, Mr. Karotkin, you're on the
22 call now?

23 MS. KIM: Actually, this is Jane Kim. I'm trying to
24 get him conferenced in.

25 THE COURT: Okay, Okay. Well, let me go forward. I

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1 want to move on.

2 So when the TCC then, a day after I said I wanted to
3 hear the motion to compel today, and the TCC set it over for
4 August 27th. I'm not going to make a big deal of it. I'm not
5 going to take it up today, even though I said I was going to.
6 But I want to make sure that everybody in this complicated case
7 with so many lawyers in so many places dealing with it, just we
8 be on the same page.

9 And so I'm going to ask again if I set something,
10 please don't mess around with the schedule, unless you get --
11 clarify from me. So I don't need any discussion about it. I'm
12 not going to take up the motion to compel because I'll write it
13 off to a -- just a failure of communication and not any
14 mischief. So I had -- and then I wanted to --

15 MR. KLEBER: Your --

16 THE COURT: -- I wanted to just -- oh, yes, sir,
17 someone wanted to speak?

18 MR. KLEBER: Your Honor, this is Kody Kleber. First
19 of all, we represent the TCC.

20 I apologize for any confusion with regard to that
21 setting of the motion to compel. I just want to say that we
22 interpreted your order as denying the motion to shorten time,
23 and that's the reason why we set it for that later date. We
24 are, of course, prepared to move forward and argue that today
25 if we're permitted to do so.

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1 THE COURT: Well, I denied the shorten time, but set
2 the time, and then the next day, it got set.

3 And Mr. Kleber, I'm not looking for an apology, I'm
4 not mad at anybody, and I'm not even prepared to discuss the
5 motion to compel today because I understood what was happening.

6 So but and further to the whole question of -- I just
7 want to make sure we communicate both my chambers and my staff,
8 and then all of the various counsel representing so many
9 people, that we don't get at further cross-purposes.

10 So after this discussion back-and-forth about the
11 motion, then on July 26th, I received a letter from other
12 counsel from the TCC asking for a discovery conference
13 regarding a number of matters that are on the subject -- you
14 know, on the agenda for today. And again, my observation is
15 simply that the ships are passing in the night slightly on
16 matters that -- ships don't need to pass in the night, we need
17 to make progress down on the -- on the voyage.

18 So I guess I'm going to encourage each firm and each
19 constituency to make sure there's some sort of internal
20 consistent coordination as to dates for requested hearings or
21 discovery conference or anything that I or my staff or our
22 responsibility falls.

23 So let's not -- let's not spend any more time on it.
24 I'm not -- I'm not going to, and none of you need to.

25 Taking the matters that are left for today in kind of

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1 an order of simplicity to more complex, they only thing that
2 was an action item that I got from the official creditors'
3 committee, not the fire -- not the TCC, but the official
4 unsecured creditors committee is Mr. Leblanc's letter of August
5 1st. And Mr. Leblanc is asking for information about the
6 BrownGreer portal, and I'm -- I can ask Mr. Leblanc to tell me
7 where things stand on that.

8 But to the extent that it might be something that Mr.
9 Orsini and the debtor is going to tell me about, generally, on
10 what's ex -- what's expected from the debtor or from others is
11 part of the suggestion that was in the statement from Weil,
12 Gotshal that maybe there's been some resolution of all these
13 matters.

14 So why don't I ask Mr. Orsini if you can help me on
15 that broader subject? So I'm looking at the debtors' response
16 that was filed to my order. It was filed on the 5th. It's
17 docket 3371, and it's lengthy. And the first topic is what the
18 debtor is waiting for from the TCC and the subrogation group.
19 Instead of talking about that, let's go to the second topic, or
20 the conclusion of that portion of the filing, that says that
21 the debtors and the wildfire claimants are working on an
22 agreement that will provide some sort of a consensual
23 resolution.

24 So Mr. Orsini, is there anything to report in a
25 discovery context in that -- in that subject, or not?

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1 MR. ORSINI: Yes, Your Honor. Can you -- can you hear
2 me now?

3 THE COURT: Yes, sure.

4 MR. ORSINI: Great. So we have been working -- the
5 debtor has been working very hard, whereas some of the trial
6 lawyers from the state court proceedings who have been managing
7 the BrownGreer database. As Your Honor, will recall, the
8 BrownGreer database was originally created through negotiations
9 between us and those lawyers, and then was ultimately the
10 subject of an order from the state court.

11 THE COURT: Um-hum.

12 MR. ORSINI: We have not yet finalized an agreement,
13 but I'm happy to report that I believe both sides are of the
14 view that we are very close to reaching an agreement. It still
15 may not come to fruition, but where we are right now is I
16 believe there are only a few terms that are still subject to
17 discussion, and the general idea would be to allow access to
18 the BrownGreer database; to come to a common understanding as
19 to additional information, including documents and other data
20 that could be provided through the BrownGreer database
21 concerning the underlying damages claims of the various
22 wildfire victims; that we would be able to use this mechanism
23 to enable further discussions between the debtor and the
24 wildfire claimant between now and the bar date, to see if we
25 can get to a consensual resolution.

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1 As the Court knows, we haven't been able to do that
2 yet, but data is very important to that effort and so we're
3 working on this agreement to try to move those discussions
4 forward and also permit the use of BrownGreer to bring a
5 significant number of wildfire claims into the bankruptcy
6 proceeding as quickly as possible to assist people in meeting
7 their obligations under the bar date.

8 So we're not quite over the goal line yet. We have
9 extended the return date on the subpoena we served on
10 BrownGreer until August 9th with the goal of trying to wrap up
11 the agreement by then. If we're unable to do so, then we'll
12 need to come back to the Court and ask the Court to resolve the
13 disputed issue of access to BrownGreer. I remain hopeful that
14 we won't wind up there, but that's the current status.

15 THE COURT: Okay. Well, so I take it, then, Mr.
16 Orsini, that to the extent that there are topics in your
17 response, under Roman I, "Debtors' Request for TCC", that that
18 covers much of that. And that's on hold, then, consistent with
19 what you said; is that a fair statement?

20 MR. ORSINI: I think there are some issues that are
21 separate and apart from the BrownGreer database that are listed
22 in Section I. For example, informational support, the overall
23 fifty-four billion dollar figure that --

24 THE COURT: Right.

25 MR. ORSINI: -- the TCC has --

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1 THE COURT: No, I understand.

2 MR. ORSINI: -- put forward.

3 THE COURT: I understand.

4 MR. ORSINI: So I do think there will be some -- yeah.

5 I do think even if we can secure the BrownGreer agreement,
6 there might be some other discovery items we're seeking. We
7 have requested to meet and confer with the TCC about those. We
8 haven't yet been able to do that. But I don't think that
9 there's anything ripe for discussion today, but it is all of a
10 kind, which is trying to get to the bottom of what these claims
11 are valued at, since that is the core (indiscernible).

12 THE COURT: Well, no, of course. I understand. And
13 if you're satisfied, you, on behalf of the debtors, are
14 satisfied at least where things stand and don't want me to act
15 on paragraph I of your report, I won't. And therefore, no one
16 else who was, perhaps, on the other side of that dispute needs
17 to even be heard. I'm not going to interject myself in what's
18 going forward, and so I'll leave it to you, Mr. Orsini. Should
19 we put this entire topic number I on hold, or not at this
20 point?

21 MR. ORSINI: I think that would be -- no, I think that
22 would be prudent, Your Honor. We will obviously not be shy
23 about asking for your help if we need it, but let us continue
24 the discussions and come back when they're ripe for
25 adjudication.

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1 THE COURT: Okay. And Mr. Leblanc, are you with us on
2 the call?

3 MR. LEBLANC: Yes.

4 THE COURT: And --

5 MR. LEBLANC: Yes, Your Honor, I am. I was just about
6 to speak up.

7 THE COURT: Okay. Well, it was your letter that had
8 this one issue, so --

9 MR. LEBLANC: Yeah.

10 THE COURT: -- are you comfortable with where things
11 stand?

12 MR. LEBLANC: I am, Your Honor. We filed our letter
13 at the time that you had asked for those types of letters from
14 other parties, so we wanted to make it clear that we had this
15 open issue.

16 We've been working -- Mr. Orsini has kept us involved
17 and kept us in the loop and, in fact, the draft of the
18 agreement provides access not only to the debtors, but also to
19 the UCC and its professionals. And so we're satisfied with
20 that, assuming that stays on course. Our issue can equally be
21 tabled to let those discussions run to fruition.

22 THE COURT: Okay. That's fine. Again, same thing.
23 I'm not going to interject myself into this. You gentlemen
24 know what you're doing better than I do.

25 So before I go to open items from the TCC, let me go

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1 to the Willkie Farr letter. And that's -- I'm sorry. Let me
2 get the right document here. Too many documents come through
3 the mail here.

4 There was a short list of items that the subrogation
5 committee has asked for, and I have managed to set aside what
6 I'm looking for. Here it is. Well, I don't know where it is.

7 So let me hear from the subrogation counsel. Are
8 things stand -- where do things stand from what -- your request
9 for information?

10 MR. MCCALLEN: Sure, Your Honor. This is Benjamin
11 McCallen at Willkie Farr & Gallagher on behalf of the
12 subrogation committee.

13 THE COURT: Right.

14 MR. MCCALLEN: Your Honor, since the TCC and the ad
15 hoc subrogation group sent their letters to the Court, we've
16 started a meet-and-confer process with the debtors. From our
17 perspective, Your Honor, we want to do this as efficiently and
18 quickly as possible, and I think there's some ways that we can
19 do that.

20 You know, the key issue, from our perspective, is
21 getting access to the physical evidence that is in the debtors'
22 possession and CAL FIRE's possession to conduct physical
23 examinations. That was part of our meet-and-confer discussion
24 with the debtors earlier this week. My understanding, and Mr.
25 Orsini will correct me if I'm wrong, but he's generally

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1 speaking in agreement that that's something that can and should
2 move forward, provided that we can get an agreement in place to
3 have all parties involved in that and to do it in a sensible
4 fashion going forward that everybody can participate in.

5 And so I think, Your Honor, from my perspective, I
6 think that the issues related to the physical evidence, I think
7 we're going to be able to come to agreement on that. And I
8 don't want to bring something to Your Honor prematurely if we
9 can come to an agreement on our own. So I think for the time
10 being, in the hope that we can reach an agreement with the
11 debtors, we can take those issues off the table.

12 The one issue which I think could be dealt with today,
13 Your Honor, because I don't want to bring issues prematurely to
14 the Court, is that the TCC has obviously served a lot of
15 discovery requests, and we'll get into those in a minute. And
16 in particular, anything that the TCC is asking for that is
17 relevant to wildfire claims is going to be equally relevant to
18 our claims. And in fact, for the final request category we
19 have in there, which is documents supporting estimates or
20 projections of wildfire claim amounts as set forth in public
21 and court filings by the debtors, and the debtors have
22 responded saying that they have produced all nonprivileged
23 documents to responsive to these requests of the TCC, but those
24 productions have not been made to us.

25 And so I think, Your Honor, one issue that we could

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1 address today -- and I don't know if any parties will have any
2 objection to this because, frankly, we haven't had a chance to
3 discuss it, but is an agreement that any materials that are
4 produced to the TCC in response to their requests on the
5 wildfire claims would come to us as well, which would allow us,
6 I think, Your Honor, to streamline and focus our requests on
7 supplemental or additional things the TCC hasn't already
8 requested.

9 THE COURT: Okay. Mr. McCallen, I'll ask Mr. Orsini
10 or anyone else from the law firm to respond, but in one -- I
11 located what I couldn't find a moment ago, and indeed, it was
12 the filing that you made on the 1st, number 3352, and that was
13 the one that had a list of about eight items. The first ones
14 were the nondestructive examination of physical evidence, and
15 I'm going to assume that the others on that list, policies and
16 practices and procedures and the de-energizing and depositions
17 and so on, that's under control for now.

18 Mr. Orsini, or someone on your side, do you have a
19 problem with Mr. McCallen's request that whatever you give to
20 the TCC can go to the subrogation group, at least in the way
21 it's referred --

22 MR. ORSINI: Your --

23 THE COURT: -- referred to in his statement?

24 Yes, go head.

25 MR. ORSINI: Yes, Your Honor, this is Kevin Orsini.

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1 I, candidly, thought that they already had a copy of those, so
2 I certainly have no objection to getting them a copy of those.
3 I do think that it obviously makes sense for the ad hoc
4 subrogation group to get any of the discovery that we are
5 providing with respect to wildfire liability issues, since they
6 have wildfire liability claims.

7 THE COURT: Okay.

8 MR. ORSINI: So I don't think there's any issue there.

9 THE COURT: Okay. Well, I'm glad you said that
10 because it seemed to me that that's the sensible approach.

11 But Mr. Orsini, as long as I've got you speaking
12 again, I want to go back to something that I'm unclear about
13 that you said. And this is -- what I'm looking at now is the
14 BakerHostetler -- that means signed by Mr. Julian -- letter of
15 July 26th, and that was the letter that triggered my need, my
16 sense that I better get moving on this discovery request.

17 And Exhibit 2 to Mr. Julian's letter includes an email
18 from you to Mr. Macon that I -- I guess I don't know who Mr.
19 Macon is, but I can guess who he is. And what your statement
20 concerned me in your letter, your email, was that since your
21 group, meaning the subrogation group, has moved to lift the
22 stay related to Tubbs, we think the Court needs to resolve the
23 question of how these wildfires -- issues will be addressed in
24 these proceedings before we embark on a path of discussing
25 specific discovery demands.

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1 I realize that that's a big question, but we can't put
2 discovery on hold while we're dealing with the estimation
3 matter that is coming back up on calendar next week. So did
4 you mean something else in that statement, if you recall? And
5 maybe the specific sentence doesn't pop up into your memory,
6 but can you help me on that?

7 MR. ORSINI: I can, Your Honor. And I know exactly
8 what you now are referring to.

9 Just for a little bit of context, the letter to which
10 I was responding was a fifteen to twenty-page letter from Mr.
11 Macon, who is one of the subrogation trial lawyers for the
12 state court proceedings, requesting that we open up
13 discovery -- I think that his phrase says, that we lift the
14 discovery stay and proceed with wildfire liability discovery.

15 My response was sent prior to us getting our
16 estimation motion on file. And the point that I was trying to
17 make in my response was simply that we weren't going to consent
18 to lifting the stay, because I wasn't even quite sure what that
19 meant in this context, but that we do believe that estimation
20 is going to require some form of liability discovery.

21 As I'm sure Your Honor recalls, part of our estimation
22 motion actually asks for an order directing all of us to get
23 together and essentially do what we're doing right now, which
24 is talk about how we're going to get the discovery in place for
25 estimation.

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1 So just to state it very directly, so there's no
2 ambiguity, it is not our position that liability discovery
3 needs to be completely shut off for now until we resolve these
4 issues. To the contrary, we completely agree that as part of
5 the estimation process we propose, there will need to be some
6 reasonable discovery into liability issues.

7 I stated in a number of letters subsequent to the
8 email Your Honor is citing that we are very amenable to having
9 those conversations. As Mr. McCallen just reported, we've had
10 meet-and-confers with the subrogation group on exactly some of
11 those issues since, and we've made it clear to the TCC,
12 generally speaking, we're ready. We do think discovery needs
13 to move forward on the liability issues, and we're prepared to
14 sit down and negotiate a protocol for that that makes sense to
15 everybody, including the Court.

16 THE COURT: Okay. Again, Mr. Orsini, you're on a
17 roll. You've given me the right answer because it seemed to
18 me, we -- discovery is a fact. There are no facts that pertain
19 only to a state court action rather than a bankruptcy action,
20 so you're on the right path, and I won't discuss it further
21 unless any other counsel want to raise it.

22 And come next week, when I deal with -- unless there's
23 some change, I'll be dealing with both the relief from stay
24 question again and the estimation motion. And by my
25 calculation, a whole bunch of people are going to be filing a

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1 whole bunch of things between now and then.

2 So unless someone else on the phone has a different
3 desire, I'm prepared to now go to the debtors' response to the
4 TCC discovery and find out from Mr. Julian or any of his
5 colleagues what needs action from me and what can we wait on.

6 So for purposes of tracking where we are, I'm now back
7 to the debtor; I guess -- again, I guess Mr. Orsini bears his
8 name on there, but it doesn't matter. It's the debtors'
9 document 3371, beginning on page 4, "Responses to TCC
10 Submission and Subrogation Submission". And there are numbers
11 of them, and I see that some have been answered; some have not
12 been answered. And I'm ready to have Mr. Julian, or whoever is
13 going to speak for the TCC, go down the list and tell me where
14 they're satisfied and where they're not satisfied. So let's
15 proceed that way, unless someone wants to suggest a different
16 approach.

17 MR. PASCUZZI: Your Honor, this is Paul Pascuzzi for
18 CAL FIRE. Can I interject here, before we get into the weeds
19 too much?

20 THE COURT: Absolutely. If you have something good to
21 say. Sure, Mr. --

22 MR. PASCUZZI: Well, I think I do.

23 THE COURT: Yeah.

24 MR. PASCUZZI: I think I do, Your Honor. Paul
25 Pascuzzi, Felderstein Fitzgerald Willoughby Pascuzzi & Rios,

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1 for CAL FIRE. We're co-counsel with the Attorney General's
2 Office. There are a couple of Attorney General lawyers on the
3 phone, listening, as well.

4 As everybody has seen, CAL FIRE, I believe, is going
5 to be prominently involved in the discovery process here.
6 There's already a subpoena from the Singleton Law Firm; there's
7 two subpoenas by the tort committee to CAL FIRE indirectly on
8 the Camp Fire. And so I wanted to just interject and request
9 that the parties kind of coordinate to eliminate duplication
10 and overbroad requests and other issues that can arise from
11 kind of a scattershot approach.

12 For example, the ad hoc subrogation committee pleading
13 mentions just looking at evidence in CAL FIRE's possession. We
14 have not been contacted about that. I assume parties will
15 contact us and we'll be able to meet and confer. There are
16 going to be some issues with respect to the Camp Fire with
17 regard to investigative privilege because there are criminal
18 investigation going on.

19 So I just wanted to chime in here, just generally, let
20 everybody know we're out here for CAL FIRE. We're looking to
21 meet and confer and assist in good faith for an efficient
22 process, and for the Court not to forget that CAL FIRE is out
23 here.

24 THE COURT: Okay. Thank you, Mr. Pascuzzi. I'll
25 leave it to you to notify all counsel what you want to

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1 coordinate. You'll be the center of gravity for that kind of
2 coordination. That sounds helpful. That's not something that
3 I was aware of, at least from the papers that I read today, but
4 that's fine.

5 All right. Unless somebody else wants to be heard --

6 MR. PASCUZZI: Thank you.

7 THE COURT: -- let's go back to Mr. Julian, or
8 whoever, if Mr. Julian wants to lead the discussion on what the
9 TCC is expecting from the debtors.

10 And I do note that, from what the debtors filed, there
11 was a promise for a number of documents two days from now. So
12 those of you who are waiting for something to happen by August
13 9th, you don't have to tell me this morning that you expect it
14 on August 9th; I'll assume you all expect it on August 9th, or
15 the TCC.

16 So Mr. Julian, are you going to speak, or Mr. Kleber,
17 or someone else in your department?

18 MR. JULIAN: Your Honor, it's Robert Julian for the
19 TCC. And I wanted to divide my comments into two.

20 First, the seventy open requests that are in our
21 response to your order will be addressed by Kim Morris. And
22 what she has done is grouped them into four buckets. And she
23 will have four common sense solutions for how the debtors, she,
24 and the Court can resolve those.

25 But before she speaks on those seventy open items,

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1 Your Honor, I would like to address Mr. Orsini's comments about
2 my July 26th letter to you in which the TCC joined in the state
3 court leadership counsels' and subrogation claimants' July 1
4 letter requesting an opening of discovery for liability issues
5 in both the bankruptcy and any relief from stay matter, with
6 respect to the twenty fires listed in there.

7 And Mr. Orsini correctly stated the debtors' view that
8 they would like to get together after August 14th to discuss a
9 discovery protocol for how to handle those types of discovery
10 requests with respect to liability for the twenty fires in
11 which the TCC has joined.

12 My point is whether or not the parties narrow the
13 discovery or not, one thing is clear. We're looking at
14 compressed discovery schedules. And that is the reason why the
15 TCC joined with the North Bay fire groups in requesting an
16 immediate opening of discovery on that. And obviously, the
17 debtors can object to some of the request as narrow, but we
18 think it's improper to simply say we're still not going to
19 produce discovery.

20 So we once again ask for discovery to be reopened,
21 that those discovery requests be responded to that are in our
22 letter.

23 And I'd like to point out why we joined with the North
24 Bay in subrogation group's request in their July 1 letter, and
25 joining in my July 26th letter. The reason is, as you'll see

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1 in our estimation brief that we're filing today, that under the
2 mass tort procedures that bankruptcy judges and district judges
3 have used to coordinate the pending state court litigation that
4 has been brought in one way or another into the federal courts,
5 either the district court or the bankruptcy court, is because
6 the state court litigants have been litigating this stuff for
7 two years. And the tort committee creditors' committee has to
8 simply work in tandem with the state court trial for a couple
9 of reasons.

10 First, as you've seen in the docket, the Cravath firm
11 has been paid ninety million dollars to work up this case for
12 two years for both liability and estimation. And we have not
13 looked at any of that information, and we haven't spent any
14 money at all on preparing because we don't have the
15 information. The state court lawyers, on the other hand, have
16 about half of the information, but not the rest of the half
17 that the debtors have.

18 And it's important to realize that in proving, as we
19 will have to do, in either an estimation proceeding or a
20 district court trial, or in the Tubbs trial, that PG&E
21 negligently managed the trees, or the system, or failed to de-
22 energize, that the documents that prove that are uniquely in
23 PG&E's possession alone. They have them. They haven't given
24 them up. They still haven't given them up. They want to have
25 a discovery plan over that.

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1 Your Honor, we simply can't wait. And we ask for
2 today that you simply acknowledge that the parties can go
3 forward with that July 1 request and that the debtors be
4 ordered to respond to it in some way. And I'd like to be heard
5 on that. I'm done with that, but after this, Kim Morris can
6 tell you about the four buckets --

7 THE COURT: Well, let's --

8 MR. JULIAN: -- that she has, and her four solutions
9 for resolving them.

10 THE COURT: Well, let's come back to Ms. Morris in a
11 minute.

12 MR. JULIAN: Thank you.

13 THE COURT: Let me let Mr. Orsini respond to your
14 statement that you just made.

15 MR. ORSINI: Yes. Thank you, Your Honor. So I don't
16 quite understand Mr. Julian's statement that I've refused to
17 provide discovery until after August 14th. I think I said the
18 opposite just a few minutes ago, and I've told him repeatedly
19 in letters and discussions over the previous couple of weeks
20 that we're ready. We're standing here, ready to embark upon
21 this liability discovery.

22 All that we're suggesting is we ought to have an
23 actual protocol in place that governs how that discovery is
24 going to work: when requests are going to be served, when
25 responses will be filed, how we'll address disputes, when

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1 depositions can start. Basically, a discovery plan, like you
2 have in every litigation with contested, factual issues.

3 And so I don't -- there's been no effort on our part
4 to delay here. We've told them repeatedly we're ready to go
5 when they want to sit down and have the protocol put in place.
6 Mr. Julian had informed me in a letter last week that they were
7 working on a protocol that covers those issues, and we were
8 waiting to receive that protocol and provide responses to it.

9 So again, I'll just say, we're prepared to move
10 forward. We just think, particularly given the amount of
11 parties, the number of parties, the compressed time schedule
12 that we have by virtue of the June 30th deadline set by the
13 legislature, that it just makes sense to have a plan in place
14 to get us from where we are today to where we need to be for an
15 estimation hearing.

16 THE COURT: Okay. But let's make sure we're on the
17 same --

18 MR. ORSINI: Yep.

19 THE COURT: Mr. Orsini, from my point of view, I have
20 to decide soon whether to grant relief from stay to two
21 different motions -- on two different motions, but really, it's
22 the same issue raised by two different moving parties. And if
23 I were to do so, then presumably the discovery would be
24 governed by the state court processes. If I deny the relief
25 from stay and say we're going with estimation -- and I'm not

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1 suggesting that it's either/or, but from my point of view, that
2 is an option -- and so if we were -- for the moment, let's just
3 take relief from stay off the table. The debtor has admitted
4 that its equipment caused all the fires except Tubbs -- and I'm
5 not going to worry about Ghost Ship; that's a different set of
6 issues -- so the wildfires, but that's all you've admitted.

7 And if I read correctly your arguments, and to some
8 extent, what Mr. Karotkin argued, if I accept the debtors'
9 contention about inverse condemnation, then to say your
10 equipment caused the fire doesn't say much of anything, in
11 terms of liability. And if, in fact, there's no proof of
12 negligence -- there still has to be proof of negligence,
13 correct, and no negligence if inverse condemnation applies. Do
14 I got the basics right?

15 MR. ORSINI: A couple clarifying points, Your Honor.
16 I think generally speaking, yes.

17 Just to be clear on a couple of things, so the debtor
18 has acknowledged causation --

19 THE COURT: Yes.

20 MR. ORSINI: -- for all purposes with respect to the
21 Camp Fire.

22 THE COURT: But causation means --

23 MR. ORSINI: With respect to the other fires --

24 THE COURT: Causation means my equipment caused the
25 fire, right?

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1 MR. ORSINI: Correct.

2 THE COURT: But it doesn't mean I --

3 MR. ORSINI: Correct. And with respect --

4 THE COURT: It doesn't mean you were negligent?

5 MR. ORSINI: That's correct, Your Honor.

6 THE COURT: Okay.

7 MR. ORSINI: The one other point I want to clarify on
8 that point is, with respect to the fires that are not Camp or
9 Tubbs, what we have said is we will not contest causation in an
10 estimation hearing.

11 But Your Honor's absolutely right. If we move forward
12 with the estimation process, there are questions of legal
13 liability because factual causation does not equal legal
14 liability.

15 THE COURT: I understand.

16 MR. ORSINI: And Your Honor's absolutely right.

17 THE COURT: Yeah. But the difference is --

18 MR. ORSINI: But Your Honor's absolutely right.

19 The --

20 THE COURT: The difference between will not contest
21 and admit is like a guilty plea and a nolo plea, right? "Will
22 not contest" means the plaintiffs don't have to prove that PG&E
23 equipment cause the Atlas Fire, or the -- I can't keep track of
24 all the names, but we're putting Tubbs on a separate -- Tubbs
25 and Ghost Ship are different. Your statement that will not

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1 contest for purposes of an estimation trial means they don't
2 have to prove that PG&E's equipment was the physical cause of
3 the fire, right?

4 MR. ORSINI: In an estimation trial, that's correct.
5 I'm simply just clarifying that if we somehow found ourselves
6 in a different situation, let's say a state court trial because
7 the motion to lift the stay on Atlas expires by tomorrow, that
8 our agreement not to contest causation is limited to an
9 estimation proceeding, not to any potential state court action.

10 THE COURT: Okay. Okay, that's fine. But if I were
11 to grant relief from stay to any plaintiff for any fire, it's
12 up to the court in that matter to deal with what do all these
13 things mean.

14 If I am presiding --

15 MR. ORSINI: Precisely.

16 THE COURT: If I am presiding over an estimation
17 trial, or if a district judge is supposed to do it, if a
18 federal judicial officer in the bankruptcy is doing it, you
19 have made it clear that for these purposes, that's not
20 contested.

21 But beyond that, I mean, there is a pretty broad range
22 of discovery that's relevant, even for the estimation. Sounds
23 to me you don't disagree with that?

24 MR. ORSINI: Not even a little bit, Your Honor. We
25 completely agree with that proposition.

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1 THE COURT: Okay. Mr. Julian, I think that Mr. Orsini
2 clarified it to my satisfaction. Are you -- still want to take
3 him on for the way he responded to first your question, then my
4 question?

5 MR. JULIAN: I understand what he's saying, and I have
6 two requests that I think can help you see where we're coming
7 from.

8 The first is, by way of background, the North Bay Fire
9 litigation, which figures prominently in any estimation
10 proceeding, had a bunch of documents produced that are in a
11 database that we now have access to for the first time, as of
12 last week. But on the eve of the bankruptcy, the debtors were
13 ready to produce thousands of documents dealing with liability.
14 They told the North Bay group that they were ready to be
15 produced on February 15th.

16 Now, those had been bought and paid for via state
17 money. They're in a database that the debtors have, that
18 Cravath has. With the touch of a button, more or less, that
19 could be produced to us because it was ready to be produced.
20 It's already been produced.

21 I request that the Court order the debtors to produce
22 the discovery that was ready to be produced on February 15th,
23 or whatever the date was -- it's already ready to go -- to the
24 TCC, and secondly, that the 800 or so investigation reports and
25 related documents that the debtors turned over to Judge Alsup

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1 that we have not been a copy to be given to us, because they
2 directly relate to their responsibility and their cover-up and
3 destruction of evidence that is so key in any estimation
4 proceeding.

5 And once again, with the touch of a button, those two
6 items could be sent to us. And I'd like a ruling on that
7 today, if I may, Your Honor.

8 THE COURT: Well, let's take the latter of those two.
9 The first one, I understand the issue. The second one, when
10 what was provided to Judge Alsup, does it relate to the 2010
11 San Bruno matter, or does it relate to the wildfires?

12 MR. JULIAN: As we understand, it relates to primarily
13 Camp, but also any wildfire. And remember, the reason for
14 that, Your Honor, is that the probation hearings have turned,
15 now, from responsibility for the 2010 San Bruno gas explosion
16 to a determination by Judge Alsup that a term of the probation
17 dealing with not violating any other laws or complying with
18 discovery disclosures means Judge Alsup is not going to let any
19 more fires happen, and he's going to investigate what PG&E did
20 with respect to the 2017 and 2018 fires. Those are the focus
21 points of Judge Alsup's orders in 2019: responsibility for
22 2017 and 2018 fires and the payment of dividends rather than
23 putting it into wildfire mitigation.

24 So yes, Your Honor. Our understanding is PG&E, in
25 response to the 2017 and 2018 questions raised by Judge Alsup

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1 as to those fires, submitted inspection reports and related
2 documentation with respect to their culpability to Judge Alsup.

3 And it's important to remember that this is so
4 important to Judge Alsup and the TCC that Judge Alsup read in
5 the Wall Street Journal --

6 THE COURT: Oh, I know that. I know.

7 MR. JULIAN: -- an article that said --

8 THE COURT: I'm aware of that. I've read his order --

9 MR. JULIAN: Yeah.

10 THE COURT: -- and I've read the response.

11 MR. JULIAN: And so yes, Your Honor. His order shows
12 that he's focused on the 2017 and 2018 fires, and we want those
13 inspection reports and related documents.

14 THE COURT: Okay. Mr. Orsini, you've taken Mr. Julian
15 into two parts. The North Bay data that was going to be
16 produced by February 15th, any reason why that shouldn't be
17 available now? It seems like it's very relevant --

18 MR. ORSINI: Okay, Your Honor, I've got --

19 THE COURT: -- to the estimations. Pardon?

20 MR. ORSINI: So Your Honor, I need to correct some
21 facts, because Mr. Julian's facts are incorrect. There was not
22 a set of documents that were ready to go as of February 15th.
23 There's no database for which at the touch of a button we could
24 produce tens of thousands of pages of responsive materials.

25 What Mr. Julian is referring to, I believe, is there

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1 was an extensive protocol in the North Bay fire cases
2 concerning the collection of emails and other electronic
3 documents from hundreds of custodians: over a hundred company
4 employees, over a course of many years, going back in time.
5 And those were then being reviewed and produced, subject to
6 technology that was being negotiated between the parties to
7 identify that which was responsive.

8 There were many technological problems with getting
9 that all done. The reality is, there's still months' worth of
10 work to do with respect to going and getting those documents
11 ready for production, with respect to pulling out the
12 privileged information, with respect to preparing privilege
13 logs. It's a massive amount of work, data, and documentation,
14 the overwhelming majority of which is, frankly, overbroad,
15 certainly for the purposes that we're addressing here.

16 So there's not a treasure trove of information that
17 I've just got sitting in some database back at PG&E or Cravath
18 where we could hit the button and produce it.

19 And this brings me back to, if -- we agree 100 percent
20 that we need to engage in some liability discovery. But we
21 also need to be cognizant of the schedule we have, as well as
22 the debtor resources, and formulate a plan that actually makes
23 sense, given the current context. And the current context is
24 not state court proceedings that could last for any number of
25 years with no deadline in sight.

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1 So again, I have no objection to producing relevant,
2 responsive information. My point is simply that we need to
3 work together to put together a process that makes sense and is
4 actually accomplishable -- if that's a word; I don't believe
5 that it is -- that's actually feasible in the context of the
6 proceedings that we have before us right now.

7 THE COURT: Well, what would have --

8 MR. ORSINI: That's point number 1.

9 THE COURT: What would have been produced on February
10 15th, if there hadn't been a bankruptcy?

11 MR. ORSINI: My understanding is very little because
12 there was still going to be a lot of work done over the ensuing
13 couple of months. I've looked into this issue with my team,
14 and there were significant amounts of work left to be done with
15 respect to the production of these custodial documents.

16 THE COURT: And what's your quick response to --

17 MR. CAMPORA: Your Honor --

18 THE COURT: Wait. Let Mr. Orsini finish here.

19 Your quick response, Mr. Orsini, to the 800 or so
20 reports that were delivered to Judge Alsup; why shouldn't the
21 TCC have access to that?

22 MR. ORSINI: I just need to go back and double check
23 the facts there, Your Honor. My understanding -- and I'm
24 involved in the Alsup proceedings, as I think Your Honor
25 knows -- my understanding is everything that we submitted to

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1 Judge Alsup was produced -- was submitted publicly. It was
2 filed on PACER, publicly available, not subject to sealing
3 orders or anything like that. So I believe everything we gave
4 to Judge Alsup they have access to.

5 I think what Mr. Julian is actually referring to is
6 that there may be some documents that were referenced in some
7 of the materials provided to Judge Alsup that we didn't
8 actually give Judge Alsup copies of because it was just too
9 much information. And if what Mr. Julian is saying is they
10 would separately like discovery of those documents, I'm happy
11 to review a discovery request, and I expect we would produce
12 those.

13 THE COURT: Okay. Someone else started to speak, and
14 I asked that person to wait. Who was that?

15 MR. CAMPORA: Your Honor, my name is Steve Campora,
16 and I represent many individuals in the state court proceedings
17 and also in the bankruptcy. And I wanted to comment about what
18 Mr. Orsini just said about the document production that was due
19 in February and also the documents that were filed under seal
20 with Judge Alsup in December of 2018.

21 THE COURT: Okay.

22 MR. JULIAN: Yes, Your Honor, may I just supplement
23 that? Mr. Campora represents the chair of the tort committee.
24 And he does have relevant information, and thank you for
25 hearing from him.

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1 THE COURT: Well, I'm happy to hear from him.

2 Go ahead, Mr. Campora.

3 MR. CAMPORA: Your Honor, in the state court
4 proceedings, we have been working with PG&E for this entire
5 process to get documents produces for approximately a year.
6 And the documents were to be done in February, and I'm happy to
7 get copies of transcripts from our hearings before the judge
8 and our correspondence on the items, but PG&E was supposed to
9 be producing the documents from the prior proceeding by
10 February.

11 We have been waiting. They have excuse after excuse
12 of why they haven't been done in nearly a year, but my
13 recollection is, and I'm happy to get the transcript, is that
14 there was an order that they be done in February.

15 So for Mr. Orsini now to say it was months and months
16 away is not accurate, and I'm happy to get those documents for
17 you.

18 THE COURT: I don't want them.

19 MR. CAMPORA: So with --

20 THE COURT: I don't --

21 MR. CAMPORA: -- regard to the documents --

22 THE COURT: Mr. Campora, I don't want them. I can't
23 process the volume of stuff. You need to make -- I take you at
24 your word, and Mr. Orsini has to figure out how he's going to
25 accommodate you or tee up a ruling that I would say that he

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1 doesn't have to. But for you to give me transcripts isn't
2 efficient because I can't process all that.

3 MR. CAMPORA: Well --

4 THE COURT: So --

5 MR. CAMPORA: -- I'll tee it up however you'd like,
6 Your Honor. But --

7 THE COURT: No, I'll take your word for it that you
8 believe that there is some information that would have been
9 available, and I'm going to tell Mr. Orsini to respond to that
10 in some way. Again, I'm not taking sides here. I'm just
11 trying to make the system go.

12 We all know that the best way to avoid a complaint
13 that the debtor isn't providing information is for the debtor
14 to provide information. And so Mr. Orsini knows that, and the
15 bankruptcy lawyers with him know that. And that's what we're
16 stuck with.

17 So Mr. Julian, I'm not going to make a ruling today,
18 but I'm certainly going to -- I'm going to put this request of
19 yours on the front burner and tell Mr. Orsini he's got to
20 respond specifically and deal with this protocol issue sooner
21 rather than later. And that's all I can hope for at this
22 point.

23 MR. JULIAN: Your Honor, thank you for that. And may
24 I ask Mr. Campora to explain to the 800 documents that PG&E
25 filed under seal with Judge Alsup and are ready for production

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1 to us?

2 THE COURT: Well, I thought --

3 MR. CAMPORA: Your Honor --

4 THE COURT: I thought Mr. Orsini said he didn't think
5 it was under seal.

6 But yes, Mr. Campora, go ahead and say that.

7 MR. CAMPORA: Well, Your Honor, what we've been told
8 is that there were 800 documents. There were inspection
9 reports and other documents related to the Camp Fire which
10 were, in fact, filed under seal or not made public at the time
11 it was done in December of 2018. And so those documents are
12 the ones we're requesting to be turned over.

13 THE COURT: Well, Mr. Orsini --

14 MR. ORSINI: Your Honor, this is --

15 THE COURT: -- you've got a response?

16 Yes, sir. Go ahead.

17 MR. ORSINI: Yeah. No, I can just cut through this
18 one, Your Honor, because I want to get back on a roll.

19 As I said, I don't believe we filed anything under
20 seal, but I make mistakes. I could be wrong about that. We'll
21 go back and take a look, and if there was something that was
22 filed under seal with Judge Alsup, those absolutely are readily
23 available. And so if that set of documents exists, we'll
24 produce them, subject to the confidentiality order here.

25 If I'm correct, that there was not something filed

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1 under seal, then I believe what Mr. Campora and Mr. Julian are
2 getting at are documents that were referenced in our
3 submissions but not actually provided to Judge Alsup. And as I
4 said, I'm also happy to speak to Mr. Julian, Mr. Campora, or
5 anyone else about making those documents available to them as a
6 separate production. And then the only thing --

7 MR. JULIAN: Let me rephrase. Let me rephrase; it's
8 Julian here. Any documents given to Judge Alsup in camera,
9 under seal, or otherwise that are not on the public record is
10 what we're referring to and what the Wall Street Journal's
11 referring to and what Judge Alsup's referring to.

12 THE COURT: Well, let me say this. I don't know what
13 the procedure is in the criminal court -- in criminal matter
14 pending before Judge Alsup. In our court, in the civil matter,
15 in the bankruptcy court, if something's under seal, the docket
16 will reflect that there is something under seal.

17 So although the docket, I'm sure, in the docket that
18 Judge Alsup has before him is lengthy, there should be a docket
19 entry that says there's something under seal.

20 Now, if, in fact, Judge Alsup did it in some other
21 way, I can't know that. But Mr. Orsini said what he's willing
22 to do, and certainly, if there was something that was under
23 seal by a judge's order, then, as long as the debtors
24 voluntarily turn it over, it should be turned over under the
25 same kind of protections we have existing in this case for

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1 various limited access.

2 And we don't want to read a sealed document in Alsup's
3 court in the Daily Journal tomorrow and San Francisco
4 newspaper. So it has to be treated in the same fashion. But
5 principle counsel for the TCC and the subrogation group would
6 seem to me to be entitled to have that. And I'm not drawing a
7 line between something other than lead counsel. I'm saying
8 consistent with the discovery and the protective orders that
9 are in place in our case, that's what I would assume.

10 Whether or not PG&E needs to get bogged down now in an
11 estimation trial about how much was paid out to dividends, pre-
12 petition -- I'm not terribly sympathetic to that needing to be
13 discovered because I don't think it's probative. But to the --
14 because they did what they did. And they told Judge Alsup, and
15 the public, and the SEC filings what they did, and if the TCC
16 wants to argue that that is somehow legally relevant to the
17 estimation process, that's another argument that can be made.

18 But I don't want to have a discovery conference to get
19 into a debate about whether details of pre-petition dividend
20 distributions are standing in the way of what we're supposed to
21 be doing in either the estimation -- well, I say the estimation
22 trial because, I'll repeat again, if I'm persuaded to grant
23 relief from stay, it seems to me there's less discovery issues
24 that are left to worry about here. But that's for another day.

25 So Mr. Orsini, I'm going to not ask you to put your

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1 responses to these issues on my record in this court. You are
2 committing to me that you are going to look into one or more of
3 these issues to Mr. Julian and Mr. Campora. If I'm pronouncing
4 your name incorrectly, I'm sorry. But the principal lawyers
5 that are looking for this information. And if you can satisfy
6 them, then you will have satisfied me.

7 And so I won't dwell on it. But Mr. Julian, I won't
8 make a ruling, either. I consider this as some progress.

9 So let's go to the four buckets that Ms. Morris -- can
10 you take over, Ms. Morris? Are you there?

11 MS. MORRIS: Yes, I'm here. Thank you, Your Honor.
12 Kimberly Morris of BakerHostetler for the TCC.

13 The documents in our submission to the Court that were
14 numbered 1 through, I believe, 70, can be grouped into four
15 separate buckets. One is the third-party contractor documents
16 that were the subject of our motion to compel. And I
17 understand Your Honor doesn't want to hear that today. We did,
18 for clarity sake's, file a notice of hearing for today, and we
19 are ready to proceed with that if Your Honor would like to hear
20 it. The debtors' response --

21 THE COURT: Yeah, but you -- please, Ms. Morris.
22 Please understand; I take some pride in preparing. But when
23 you filed something that moves it over to later in the month, I
24 don't prepare for it. So I will let you respond if the
25 principal lawyers on the other side want to hear from you. I

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1 wouldn't even know what you're talking about.

2 So have you communicated before this hearing with Mr.
3 Orsini or others with him on your position on the third-party
4 contractors?

5 MS. MORRIS: We have. We had communications with them
6 and then it resulted in our motion to compel that was filed by
7 my partner, Kody Kleber. And the debtors have responded that
8 they have produced all of the relevant documents in their
9 response to your order for this hearing. And so I believe the
10 record is ripe for a discussion of this today if Your Honor is
11 willing to take it up.

12 THE COURT: Okay. Go ahead. All right, so --

13 MS. MORRIS: Well, I'd first like to get through the
14 list of the other topics, just so that you have clarity going
15 into this, what those four topics are.

16 THE COURT: Okay.

17 MS. MORRIS: One is those third-party documents and
18 contracts.

19 The second are insurance policies, and that made up a
20 large section of our list. And those are obviously relevant
21 because they're assets of the debtor, and it is important for
22 the TCC to understand the coverages that are available for
23 their claims -- for the tort victims' claims, as well as
24 whether or not notices of claims and tenders of claims have
25 been properly made to make sure those buckets of money are

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1 available for claims such as this.

2 The third documents are what I'm going to call board-
3 related documents. And these are documents that have been
4 outstanding for almost five months now. And the debtors have
5 responded that they've produced all -- or have not located or
6 produced all nonprivileged documents.

7 Your Honor, we have not received a privilege log, so
8 we're not able to evaluate that response sufficiently without a
9 log. So with that request, that one's simple. We just ask
10 Your Honor to order the debtors today to produce a privilege
11 log for documents that are outstanding for almost five months
12 now.

13 And the last, most important, I believe, for this
14 call, for purposes of this call, are the claims estimations
15 documents. And those documents, Your Honor, fit into two main
16 buckets. They're the settlements relating to prior fire
17 claims, so claims relating to the 2015 Butte fire and the 2010
18 San Bruno fire, and all the information the debtors are using
19 to estimate claims.

20 They've made many statements, both in financial
21 filings as well as in this court and publicly, about the value
22 of the liability for these tort claims. And the TCC has sought
23 information upon which they're basing that because, as we know
24 for financial filings, there has to be some reasonable basis
25 for it.

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1 The debtors have been estimating their liabilities in
2 connection with these public filings and public statements
3 mainly in reliance upon the underlying settlement agreement.
4 Yet in my meet-and-confer sessions with Mr. Orsini, he's saying
5 that they're not able to turn over those settlement agreements
6 and related documents and that they're producing their internal
7 records relating to those settlements in redacted form because
8 they contain privileged and work-product information.

9 Your Honor, bankruptcy courts consistently rely
10 upon -- in estimating mass tort liabilities -- consistently
11 rely upon prior settlement information, and it's why we cited
12 to the Eagle-Picher case underneath our request for the
13 settlement data. That case drives home the point that
14 settlement data is the most reliable information that you can
15 use to estimate claims because it's the direct information on
16 how the debtors have handled claims that -- similar claims in
17 the past that are being asserted against them now. And to
18 ignore that information would be to ignore valuable
19 experiential resource that the parties in the case could use to
20 estimate those claims.

21 The debtors' internal records that have been produced
22 show that they are relying upon those settlement agreements in
23 their internal estimations of the claims here. They have
24 produced many of those documents in heavily redacted form. And
25 what they have produced is incomplete; we only have maybe less

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1 than ten percent of the settlement data related to the Butte
2 fire. And the debtors have refused to produce any information
3 in connection with the San Bruno fire, claiming that it's a
4 wholly different event. However, it is a fire event caused by
5 PG&E that resulted in the exact same damages that are at issue
6 here, the exact same types of claims. And so we claim that it
7 is actually very relevant to look at that information as well.

8 And they're withholding this information from us
9 either in redacted form or in withholding the settlement
10 agreements and related documents themselves, claiming that
11 they're subject to a mediation privilege and that they're
12 subject to other privileges.

13 And with respect to the mediation privilege, Your
14 Honor, they're relying upon California Evidence Code Section
15 1119 that states that the documents are protected from
16 disclosure. However, there are exceptions to that under
17 California law, namely, Evidence Code Section 1123, that say
18 that if the settlement agreements themselves contain language
19 that they are enforceable or otherwise admissible, that they
20 can be -- that they're not subject to the protections of the
21 mediation privilege.

22 But more importantly, Your Honor, this is information
23 that can be turned over confidentially to the tort claimants.
24 In this case, we heavily negotiated a protective order. That
25 protective order contains language saying that if a party has a

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1 pre-existing obligation to third parties to treat information
2 as confidential, that they can mark it as such, and it would be
3 covered by the protective order.

4 And telling us -- the debtors have told us that we
5 need the 1,500 or so underlying claimants that they settled
6 those cases with to give their permission to turn over those
7 documents. But we don't need that, Your Honor. We have the
8 protections of the protective order here and, most importantly,
9 the debtors themselves are relying upon this information.

10 Bankruptcy courts expect that the parties will all rely upon
11 this information, and the debtors are not providing it to us.

12 So in connection with our request for this
13 information, Your Honor, we simply ask that the debtors be
14 ordered to produce all settlement agreements and demands in
15 connection with the 2015 Butte fire settlements and the 2010
16 San Bruno fire settlements, that they be ordered to produce all
17 of the internal reports that they're using to estimate claims
18 which include their internal reports on these settlements in an
19 unredacted form so we're all on a level playing field here as
20 we seek to do the most important job which is estimate the
21 massive amount of liability in connection with these cases.
22 They've been doing it for months, and we'd like to get up to
23 speed and be on the same level, fair playing field with them.

24 And then, lastly and specifically, that they be
25 ordered to produce all the information that they're producing

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1 to the SEC, in connection with the SEC's almost identical
2 request to them -- that they produce information relating to
3 their public disclosures and accounting for losses associated
4 with the 2017 and '18 Northern California wildfires.

5 So the SEC is seeking the same exact information that
6 we are, yet the debtors are saying that they're not going to
7 produce that in its entirety to us. So our requests are simply
8 for those three items to be ordered to be produced today, Your
9 Honor.

10 THE COURT: Well, Ms. Morris, you did a nice summary
11 of the four buckets for you, then proceeded to argue all the
12 merits of bucket number four.

13 So Mr. --

14 MS. MORRIS: I did, and --

15 THE COURT: That's all right.

16 MS. MORRIS: I --

17 THE COURT: That's all right.

18 MS. MORRIS: I'm happy to cover the other buckets now
19 or just handle this one.

20 THE COURT: Well, I'm going to ask Mr. Orsini to make
21 my job simple about the privilege log for bucket number three.

22 Mr. Orsini, is there some reason why you can't commit
23 to a privilege log for what we're going to call bucket number
24 three?

25 MR. ORSINI: No reason at all, Your Honor.

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1 THE COURT: All right.

2 MR. ORSINI: We're happy to do that.

3 THE COURT: Okay. When is that likely to be produced?

4 MR. ORSINI: I will commit to Your Honor that we'll
5 produce it as soon as we reasonably can. I'm a little reticent
6 to just give you a date right now, because I don't know the
7 scope of what's been done on that front and how many documents
8 we're talking about.

9 If it's acceptable to Your Honor, I will be in court
10 next week on the other motions, and I'd be happy to report to
11 the Court a deadline that is based upon actually looking into
12 the work that's required. But I can commit that we'll do what
13 we can in good faith to get it done as soon as possible.

14 THE COURT: Well, okay. I'll tell you what.

15 MS. MORRIS: Your Honor, if I may respond to that?

16 THE COURT: Well, Ms. --

17 MS. MORRIS: If I may respond, those requests have
18 been outstanding for five months.

19 THE COURT: Ms. Morris --

20 MS. MORRIS: And so --

21 THE COURT: Ms. Morris --

22 MS. MORRIS: -- I think it --

23 THE COURT: Ms. Morris --

24 MS. MORRIS: Yes.

25 THE COURT: I can only handle so many issues. And a

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1 privilege log is important, but it's not as important as bucket
2 four. So I'm going to let Mr. Orsini give either you a
3 response on the merits or me a response as to when there'll be
4 a response, next week at the hearing. So we have hearings on
5 the 13th --

6 MS. MORRIS: Understood.

7 THE COURT: -- and the 14th. So five months is a long
8 time, but one more week isn't going to kill the deal.

9 So Mr. Orsini, I'll take your word for what you'll
10 give us. If Ms. Morris gets the response and she's satisfied
11 with the timing, then you needn't come back to me on it.

12 So Mr. Orsini, do you want to defer the third-party
13 contractor issue, bucket one? Because I was prepared to do it
14 because the debtor -- I mean, excuse me, the TCC had kicked
15 that one out. What would you like to do about the third-party
16 contractor information?

17 MR. ORSINI: I can address it now, Your Honor,
18 although I do think it would be beneficial to the Court for us
19 to have the opportunity to put in a short written response,
20 before we take it up. Ultimately, I think it's premised upon a
21 misreading on their part of the request they actually
22 submitted. We were preparing a response, but then had
23 understood, based upon the various notices they filed, which
24 confused us, that it wouldn't be taken up today. So I do think
25 it would be better for the Court to have the benefit of a very

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1 short written response --

2 THE COURT: Okay.

3 MR. ORSINI: -- for us, and then we could take it
4 up --

5 THE COURT: Okay.

6 MR. ORSINI: -- at a later date.

7 THE COURT: No, give your opponent a response. And if
8 they're satisfied, I don't need a response. If they're not
9 satisfied, then we'll deal with it on the calendar where it is.

10 I mean, to me, it's one thing -- as I said at the
11 start, I'm not faulting anybody. It would have been better
12 that we not have different people setting deadlines. But since
13 the TCC's counsel was willing to put things out to the 27th,
14 I'm putting them out to the 27th, but maybe we don't get there.

15 Okay. So that leaves two buckets. Insurance
16 policies, when she --

17 MR. KLEBER: Your Honor?

18 THE COURT: Yes, sir? Yes? Who's that?

19 MR. KLEBER: This is Kody Kleber again.

20 THE COURT: Oh.

21 MR. KLEBER: If I may again apologize for any
22 confusion regarding the notice. But the motion to compel,
23 regarding third party documents, is on calendar today. We did
24 file an amended notice for the hearing today, and it is on the
25 docket. We are prepared to speak to that at more length --

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1 THE COURT: I'm --

2 MR. KLEBER: -- but if you're inclined to give
3 opposing counsel --

4 THE COURT: I'm not prepared. I didn't --

5 MR. KLEBER: -- the opportunity to respond, we can --

6 THE COURT: I'm not prepared. Did you withdraw
7 your --

8 MR. KLEBER: Understood.

9 THE COURT: -- setting of it on the 27th?

10 Pardon? You did or didn't?

11 MR. KLEBER: Yes, Your Honor. We filed an amended
12 notice setting it for today, in accordance with the Court's
13 order --

14 THE COURT: When did you file that?

15 MR. KLEBER: -- denying the motion to --

16 THE COURT: When did you file that?

17 MR. KLEBER: On August 2nd, Your Honor.

18 THE COURT: Okay. I just can't --

19 MR. KLEBER: On August 2nd, Your Honor.

20 THE COURT: My staff and I can't keep up with the
21 pace. This is going over to the 27th, but Mr. Orsini will be
22 responding informally, Mr. Kleber, to you and Ms. Morris. And
23 if that satisfies you, that's the end of it. If not, the
24 motion will stay on calendar on the 27th, and that's where
25 we'll be.

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1 Okay. On the insurance policies, when I read the
2 written responses on the debtors' filing, I thought that they
3 were responding to most of the requests about the insurance
4 policy. Ms. Morris doesn't feel that way.

5 So Mr. Orsini, what's your response to that?

6 MR. ORSINI: Well, I guess we're not quite sure what
7 it is that they're looking for, Your Honor. A large number of
8 the issues related to the insurance policies were raised with
9 us for the first time in their submission to the Court.

10 (Indiscernible) through the end.

11 As we have set forth in our response, if there are
12 specific issues they'd like to address with us, we're happy to
13 look into those. More broadly, on the insurance issues, we
14 either have provided or will provide everything that we've
15 identified that we believe is responsive to their request. And
16 some of those are the documents that, as Your Honor noted, we
17 said we'd produce by August 9th.

18 There are certain categories of policies that they're
19 pushing for, in response to requests for insurance that could
20 cover wildfire claims, that, after having reviewed them and
21 consulted with the internal PG&E insurance experts, we don't
22 believe are responsive because they don't cover wildfire
23 claims, things like fiduciary coverage for employee benefit
24 plans, things like property insurance coverage that covers
25 PG&E's property itself.

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1 So I think, really, this bucket falls into two
2 sub-buckets: a bucket where I'm not sure exactly what it is
3 they don't think we've given them, but we're happy to look into
4 that; and then a bucket where we believe, based upon our work,
5 we've actually satisfied the request, or will, in short order.

6 THE COURT: Yeah. Ms. Morris, I, of course, looked at
7 the items, the numbers all the way through number seventy, that
8 you put there. And I don't know -- I can't tell what kind of
9 policies they are. I mean, what's the relevance of a policy
10 that might cover a direct loss of PG&E's own property or some
11 other kind of thing that really has nothing to do with a fire?
12 I mean, why do you want to go exploring things that clearly, on
13 their face, aren't going to be relevant?

14 MS. MORRIS: Well, Your Honor, it's because we don't
15 believe that it's clear on its face that they are irrelevant.
16 We have an insurance specialty team that has been reviewing
17 these policies and that have worked with policies similar to
18 this in the past. And without actually seeing the policies,
19 it's not clear that they wouldn't cover claims like this.

20 And the debtors are making blanket statements that
21 they don't cover claims like this. However, my insurance
22 experts are telling me that they could, in fact. And so all
23 I'm asking is that the policies be produced and the TCC be
24 allowed to make its own determination as to whether or not the
25 policies would provide coverage for these claims and an

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1 additional source of recovery for these claims, as an asset of
2 the debtor. And so all the other lines of coverage for which
3 we're seeking are specific to that request.

4 THE COURT: Well, looking at your list, starting with
5 number 27, that's an errors and omissions policy, and then it
6 goes on. After that, there's an all-property insurance
7 policies for various years. And in every case, the debtor
8 says -- or for many of them, starting with, let's say, number
9 32, it says, "Debtors produced this policy. Debtors need
10 further information as to what's missing." Well, if the debtor
11 produced the policy, isn't that enough for your expert to know
12 what that policy insures?

13 MS. MORRIS: Yeah, my understanding, Your Honor, is
14 that we have not received any policies that are specific to
15 those lines of coverage. I believe the debtor is referring to
16 the fact that their CGL policies or their general liability
17 policies may cover some (indiscernible) information, but they
18 also may have stand-alone policies in these particular coverage
19 areas that may provide additional coverage.

20 And so, Your Honor, we'd like to see those policies
21 and make a determination for ourselves as to whether they do
22 add additional pots of money to the wildfire claim and possible
23 recovery.

24 THE COURT: So let's again stick with the one that I
25 started with, number 32. It's a general liability policy --

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1 MS. MORRIS: Um-hum.

2 THE COURT: -- ACE Bermuda Limited, and I won't read
3 the numbers. And your list says, "full policy not produced".
4 But are you telling me that your experts need to look at the
5 full policy; if they look at the face page or the coverage,
6 that that's not going to tell them, by the way, this doesn't
7 cover fires? It covers lost furniture or lost something or if
8 a PG&E truck crashes into a plaintiff or something? I mean,
9 how much information is enough information? I don't know the
10 answer here.

11 MS. MORRIS: I think I can clarify. When I was
12 responding earlier, I was responding to the other lines of
13 coverage. As to the specific policies where a policy number is
14 referenced here, that's a little bit different. Those are
15 either CGL, punitive, or D&O policies. The debtors have
16 provided charts that say: here's all the policies within these
17 buckets.

18 And we've cross-referenced their productions in quite
19 onerous detail to those charts, to make sure we have all of
20 those policies. And for ones where we say the full policy is
21 not produced, we only have maybe a declaration page or an
22 endorsement page. We don't have the full policy. And without
23 having the full policy, there's no way to tell if that
24 coverage -- what the coverage terms are.

25 And so I think this is a very easy one to handle.

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1 Where we referenced a specific policy number, saying we either
2 don't have it or that we don't have a full policy, my request
3 is just that you order the debtors to go back and produce that
4 full policy. If they don't have it, that we be allowed to take
5 discovery from -- we'll serve discovery from their broker,
6 Marsh, who undoubtedly has it.

7 THE COURT: Isn't this getting a little bit
8 attenuated? We're supposed to dealing with estimation of fire
9 claims, and now you're telling me you're going to take the
10 deposition of the broker to find out if some GLP -- general
11 liability policy or D&O policy or some other thing might cover
12 the fire losses? I mean, that seems to be such an extreme
13 extension. I just don't know why I would permit it. It seems
14 overly burdensome.

15 And now, having said that, I don't know what any of
16 these policies say. But it seems like -- it seems far broader
17 than I'd be inclined to order, at this point. I mean, the
18 thought of taking a deposition -- of having the TCC lawyers
19 take the deposition of the insurance broker, to determine what
20 is not evident on the first page of a policy seems like a waste
21 of effort.

22 I'm going to let the debtors -- I'm going to let you,
23 Ms. Morris, tell Mr. Orsini or the debtors, in each of these
24 instances where the debtor says, "need further information",
25 that you give him a response per item. And if he can respond

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1 and is willing to respond, that's fine. If not, I'll do my
2 best to try to resolve it.

3 But keep in mind, D&O policies don't cover third party
4 fire losses the last time I checked, and it's hard for me to
5 understand why that would be relevant to you. So I'll leave it
6 at that.

7 Let's come back to the big question, bucket four. Mr.
8 Orsini, why don't we start with San Bruno. Why are you
9 resisting giving them information about the San Bruno fire?

10 MR. ORSINI: Well, Your Honor, I think there's a macro
11 issue that relates to both San Bruno and the Butte fire case,
12 that we have to get into first. As a quick response to your
13 question, because we don't think the San Bruno fire, which was
14 a gas pipeline explosion in a residential neighborhood nine
15 years ago, in a circumstance where the company's insurance
16 coverage covered all of the losses, is even remotely probative
17 of the estimation of damages here.

18 It's, as I was explaining to the TCC, not something
19 the company has looked at, in any way, shape, or form. To try
20 to estimate potential losses with respect to either the 2015
21 Butte fire or the 2017/2018 fires, though Ms. Morris's argument
22 about the work we've been doing and what the company's relying
23 upon -- taking that argument at face value, our own approach,
24 given our experience, has been San Bruno's just not part of the
25 equation. We think it's a fundamentally different type of

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1 event that is not remotely probative here.

2 Now, I think the bigger issue that relates, Your
3 Honor, to both the San Bruno fire and with respect to the 2015
4 Butte settlement agreement that Ms. Morris sort of glided over,
5 is there is a very strong, very specific mediation privilege in
6 the state of California. And it prohibits either party to the
7 mediation to turning over documents that were communicated as
8 part of the mediation efforts -- exactly the type of documents
9 that Ms. Morris is talking about -- the offers, the demands,
10 the back-and-forth in a mediation, and ultimately the final
11 settlement agreement.

12 So absent an agreement from both sides to waive that
13 mediation privilege, we don't believe the documents can be
14 produced, given the clear California law. Now, what Ms. Morris
15 also did not mention is that I have stated to her that the
16 debtor is absolutely prepared on its part to waive the
17 mediation privilege with respect to the 2015 Butte settlement.

18 If the TCC has been arguing that they're entitled to,
19 in total, fifty-four billion dollars in damages based upon some
20 ratio analysis to the 2015 Butte settlement, as we've stated in
21 the filings to Your Honor, we just believe that's flat wrong.
22 The (indiscernible) believe that's flat wrong. And we frankly
23 believe that analyzing the specifics and the trends of the
24 Butte settlements will demonstrate why that was a different
25 fire at a different time in a different place under a different

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1 insurance regime.

2 And so we are one hundred percent prepared to waive
3 the mediation privilege with respect to the 2015 Butte fire and
4 provide that information. The problem is we don't get to waive
5 that ourselves. It's not a one-party waiver scenario. And so
6 we asked the TCC almost a month ago whether they could talk to
7 the trial lawyers who they're working with, including Mr.
8 Campora, who the Court heard from earlier, to see if they would
9 be willing to waive the privilege with respect to their part.

10 We never got an answer back to that until after they
11 had already told the Court that the issue was ripe for
12 determination. We had a subsequent call, where I said we were
13 still waiting for this, and they told us that the answer from
14 the trial lawyers was it's too much work. It's too much work
15 to go back and try to get this consent from 1,500 people.

16 We don't have a whole lot of empathy for that
17 position. But in the end of the day, from our perspective,
18 we're stuck here, because we have California law that says we
19 can't do this. We've said we're willing to waive this.
20 They're here arguing to the Court that we're stonewalling and
21 trying to hide this, but they're unwilling to make the effort
22 to actually get the consent that would be needed to get access
23 to the documents.

24 The reference to confidentiality order solves nothing.
25 The confidentiality order, as the Court well knows, is just

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1 about exactly who can see a set of documents that are produced.
2 But if the law says the documents can't be produced in the
3 first instance -- and that's what the mediation language seems
4 to say -- under California state law, the fact that you
5 produced it subject to a confidentiality agreement doesn't
6 change the fact that you've made an unlawful disclosure.

7 THE COURT: Okay. Let me ask you this question.

8 MR. ORSINI: And so --

9 THE COURT: Mr. Orsini, I seem to recall there were a
10 number of Butte County plaintiffs who settled and got paid and
11 were home free, and a large number of others complained because
12 the bankruptcy stopped them. Focusing on the latter group, the
13 plaintiffs who settled with Butte on Butte fire but didn't get
14 paid, they will either fish or cut bait. They will either file
15 a claim, or they won't. Correct? And so if there --

16 MR. ORSINI: I would expect so, Your Honor.

17 THE COURT: If there's a victim of the Butte fire who
18 has a settlement agreement that says you're entitled to X
19 dollars and that person doesn't file a claim, that person might
20 be out of luck. If the person does file a claim, it would seem
21 to me -- I don't know where there's a privilege or perhaps a
22 privilege waived as to the final document. I'll leave aside
23 the negotiations and the backs and forth.

24 But at the end of the day, if there's a document that
25 a claimant files to say, I settled for X dollars; here's my

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1 settlement agreement; this is my claim, it's hard for me to
2 imagine that that document is privileged any longer. Do you
3 think, Mr. Orsini, that's a correct, accurate statement or an
4 inaccurate statement?

5 MR. ORSINI: Well, to answer the question, Your Honor,
6 I don't really know the answer to that, and that's part of what
7 we're struggling with here, because I think the face of the
8 mediation statement -- the mediation privilege -- would
9 arguably say -- and I think, right on its four corners would
10 say they can't disclose that settlement agreement in this
11 context. Now --

12 THE COURT: But the claimant --

13 MR. ORSINI: -- as you just heard me say --

14 THE COURT: But the claimant can. If PG&E --

15 MR. ORSINI: Well, no. I don't think so, Your Honor.

16 THE COURT: Wait a minute. If PG&E publicly states
17 that it will waive a privilege for people they settled with --

18 MR. ORSINI: Yes, that's where I was going.

19 THE COURT: -- and Mr. X --

20 MR. ORSINI: Yes. That is where I was going with
21 that.

22 THE COURT: -- settled, and he files his proof of
23 claim, that sounds to me like a waiver of any privilege.

24 Now, Ms. Morris --

25 MR. ORSINI: I think you're right, Your Honor. That's

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1 where --

2 THE COURT: Okay.

3 MR. ORSINI: Sorry.

4 THE COURT: Ms. Morris, is that your understanding of
5 the California law? If both sides to the settlement meet and
6 waive the existence or the four corners of the settlement
7 document, isn't that their prerogative?

8 MS. MORRIS: I agree with you that the parties can waive the
9 settlement privilege, Your Honor, but I don't think that that's
10 the relevant analysis here. The analysis is the fact that it's
11 not covered by the mediation privilege from the get-go because
12 of the related evidence code Section 113 -- 1123 which says
13 that they're not subject to the mediation privilege or
14 protection if the policy includes language that is admissible
15 or subject to disclosure, or words to that effect. Or if the
16 agreement provides that it's enforceable or words to that
17 effect.

18 So the protections are -- include specific additional
19 provisions that would take them outside of the mediation
20 privilege themselves.

21 THE COURT: Well, I don't --

22 MS. MORRIS: And beyond that, Your Honor --

23 THE COURT: But again, how do I know that? How do I
24 know what they actually say? I don't know. Who knows?

25 MS. MORRIS: Well, that's the point. We have no

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1 testimony or evidence before this Court that any of these
2 documents are subject to the mediation privilege or are marked
3 as such.

4 THE COURT: Well, we have on your side of the debate
5 here, the plaintiffs' lawyers. And they are in a position to
6 express their opinions as to whether their own clients have
7 waived a privilege. Again, that's not -- they didn't do
8 anything wrong. The question is if there's a settlement
9 agreement between Mr. X and PG&E and it has on it's face the
10 kind of language you say, then why would anybody assert that
11 it's privileged? But if the debtor says, we waive any claim of
12 privilege, it seems to me the ball is in the TCC's court and
13 the option to make those documents available freely and
14 voluntarily.

15 Remember the TCC and its bankruptcy lawyers want to
16 put together all this information to come up with an estimation
17 of the aggregate claims for purposes of confirmation of a plan.
18 We are not talking an individual's particular rights. In fact,
19 if there's been a settlement, I don't know that there's
20 anything to talk about in terms about estimation. It's a done
21 deal. It's not an unliquidated claim, it's not -- it's
22 certainly not contingent, and it's not disputed. So it's the
23 unliquidated claim that we're talking about.

24 So I guess what I'm saying --

25 MS. MORRIS: No, actually, Your Honor --

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1 THE COURT: Go ahead. Why isn't it --

2 MS. MORRIS: Sorry.

3 THE COURT: Doesn't it -- why isn't it a liquidated
4 claim and therefore isn't even up for estimation?

5 MS. MORRIS: But we're not seeking the settlement
6 agreement -- the 1,500 settlement agreements from Butte and the
7 hundreds of settlement agreements from San Bruno, we're not
8 seeking it for purposes of determining the value of those
9 claims. We're seeking them, quite frankly, for the same reason
10 that the debtors are using them. Because they provide a lot of
11 useful data points from which the TCC and all the parties can
12 use to estimate claims in this process.

13 All of the debtors' documents that they've produced so
14 far give reference to the fact that they are relying upon prior
15 settlement data to analyze what the value of the future claims
16 are worth. Because they're identical. They contain property
17 losses. They contain nuisance claims. They contain zone of
18 danger claims. They contain emotional distress claims and
19 wrongful death claims. They're the exact type of claims under
20 very similar circumstances as what we're trying to estimate now
21 and the debtors recognize the relevance and importance of this
22 because they're relying upon them in how they're approaching
23 estimation.

24 And so the bankruptcy courts regularly recognize this
25 and the Eagle-Picher case is probably the most prominent one on

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1 point but all of the (indiscernible) cases do as well.

2 THE COURT: You know, it doesn't help -- Ms. Morris,
3 it doesn't help for you to keep citing a bankruptcy court level
4 case. It's not controlling doctrine. I will consider it but,
5 on the fly, I can't. Okay? I prepared for a discovery
6 dispute, not for a legal argument about the applicability about
7 another bankruptcy court decision.

8 And I know it's an important case but I don't -- I
9 have to deal with it in this case. If to the extent -- you
10 persuaded me that to the extent that the debtor is going to
11 rely on this data for its part of the calculation to estimate,
12 then indeed they -- you should be entitled to it also. I don't
13 disagree with that.

14 But I will say that if there is a claimant who settled
15 and the only thing that happened is that -- well, one --
16 claimant A settled and got paid, claimant B settled and didn't
17 get paid, those two claims may be relevant for various purposes
18 but neither of them is disputed or unliquidated. Each is
19 liquidated and each is undisputed.

20 Now, does that mean it's taken into account for
21 purposes of the estimation? I don't have an answer. But I
22 would think that the inquiry that the trier of fact has to make
23 here for purposes of confirmation or -- well, for confirmation
24 purposes at the moment, is that's not an unliquidated claim,
25 it's not considered. Now, I -- you all and you, Ms. Morris,

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1 specifically, have done much more research and learning on
2 this. I have not. So you may believe that I have overstated
3 or oversimplified and if so then I will hope to be educated
4 when I have to. For now, I'm just dealing with it as a
5 discovery dispute.

6 And so I -- look, I'm looking for a solution for at
7 least the Butte fire discovery question and it strikes me that
8 maybe the answer is found in the plaintiffs' willingness to
9 consent, at least, to the providing of the information that
10 we've talked about.

11 Mr. Orsini, was that you about to speak or someone?

12 MR. ORSINI: It was, Your Honor. I was going to
13 offer, at least what I view is a constructive solution. One
14 piece of it is what you just said which is that the easiest
15 path here is for the plaintiffs' lawyers to get the consent of
16 their clients and then we don't have an issue. Because
17 ultimately, as I stated Your Honor, the debtors want to get
18 this information into the TCC's possession and ultimately
19 before the Court. What I can't do is advise my client to
20 produce documents when I think we might be violating California
21 state law.

22 And so I think in the first instance, the easiest
23 solution is the consent from the plaintiffs' counsel. And if
24 we're unable to get that consent, frankly, it raises my concern
25 about producing the documents because you don't hear them

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1 saying that the documents can just be produced. And so we've
2 got a legal question as to the ability if the debtor, my
3 clients, turn them over. If we don't get the consent of the
4 plaintiff's lawyers, maybe then we need to have a motion teed
5 up for the Court, I hate to suggest more paper Your Honor but
6 this is an important issue, we have a motion teed up for the
7 Court, a motion to compel from the TCC, where they can set
8 forth specifically why they believe we actually can produce the
9 documents under California law. We can provide Your Honor with
10 a counterargument and if Your Honor agrees with the TCC which,
11 you know, frankly, would be the outcome we're looking for here,
12 there would be an order that requires us to produce the
13 documents.

14 THE COURT: Well, Mr. Orsini --

15 MR. ORSINI: As we stand here --

16 THE COURT: Mr. Orsini, why can't you in the aggregate
17 estimate -- why can't you say, what are the amounts and the
18 number of claims settled and the number and the amount of money
19 paid or committed to be paid to settle Butte? That doesn't
20 disclose a specific --

21 MR. ORSINI: But we can, Your Honor.

22 THE COURT: I mean, when it comes to an estimate -- if
23 we were having an estimation trial, we wouldn't be looking at
24 individual documents, we'd be looking at the aggregate. And
25 this goes back to my point about if the claims are liquidated

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1 and no longer disputed, I don't even know they are relevant.
2 But let's assume that it is. Certainly the debtor is able to
3 say, we had X number of claims asserted against us in Butte and
4 we settled for Y amount of dollars. And I would think that
5 that might very well be probative in terms of, well, okay, what
6 is the inference one might draw to estimate the claims for the
7 Atlas fire or the -- some other fire, if there's a comparable
8 of fires. There certainly might not be comparable fires but
9 they're comparable of the kinds of damages that are asserted by
10 the victims and what got them compromised and settled.

11 MR. ORSINI: And to address that, Your Honor, I do
12 believe we can disclose the aggregate number. We have
13 disclosed that aggregate number. It's in the company's
14 financial statements. The aggregate numbers are in the
15 documents that have already been produced to the TCC. But this
16 is where there could be significant prejudice to the debtors
17 and other stakeholders if we're just talking about the
18 aggregate number.

19 A fire from 2015 that involves different geographies,
20 different claims, different insurance law, we don't believe the
21 aggregate number itself would fairly and accurately describe
22 what an estimated liability would be for the current fires.

23 THE COURT: But isn't that for your --

24 MR. ORSINI: And while the --

25 THE COURT: -- isn't that for your expert to say? In

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1 other words, doesn't --

2 MR. ORSINI: It is, Your Honor. It absolutely is for
3 our expert to say, but how can our expert do that and how can
4 our expert do that with any level of confidence to present to
5 Your Honor if the expert can't dig into what drove particular
6 settlements. But why it -- you know, taking a sampling of the
7 settlements, why did this amount of money get paid out for this
8 type of claim?

9 THE COURT: But that -- Mr. Orsini, I --

10 MR. ORSINI: And how does that --

11 THE COURT: I think that's why estimation is
12 different. In other words, if we were having a trial with a
13 group of plaintiffs here each to prove his own case and it may
14 be inappropriate to look to see the specifics of settlements of
15 some prior claims of some prior people in comparable
16 situations. But when there's an estimation, by definition it
17 is an aggregate approach.

18 Now, I believe that an expert on one side or the other
19 might try to say, well, why is the Butte fire different from
20 the Camp fire, or the Tubbs fire, or any other fire? And
21 indeed, I'm sure your experts would say, well, of course, the
22 San Bruno fire is completely different and so was the Goshen
23 fire. Because they are different. The question is whether
24 they are relevant for purposes of making an estimation, and if
25 an expert says, you know, whether it's Atlas or Camp or you

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1 know whatever the other names of all the other fires, it's all
2 part of the aggregate estimation of property damage, wrongful
3 death, personal injury, et cetera. That's much different.

4 So I guess what I'm saying is that I don't know why
5 you can't provide enough detail that protects the privilege but
6 is responsive to how do you, as PG&E's counsel go about your
7 estimation of this component called the Butte 2015 fire. And
8 it seems to me that could be shared with the plaintiffs.

9 And I don't know this for sure but I'm pretty sure
10 that the estimation process is unique to bankruptcy. I
11 don't -- there may be similar processes in class actions and in
12 multi -- mass tort litigation under state law or even under
13 federal civil practice but in thinking about this case, as I
14 have a lot lately also, and reading the briefs, I'm not sure
15 I'm aware of any counterpart or corollary to the estimation
16 process that has to be done under Section 502(C).

17 So let's get back to work. Ms. Morris, I think --

18 MS. MORRIS: Your Honor, if I could respond to --

19 THE COURT: Well, I think --

20 MS. MORRIS: -- your comments and Mr. Orsini's?

21 THE COURT: Well, yeah. But I think you're going to
22 have to be -- give me more information before I can order what
23 you want me to order at this point. And I -- including -- I'm
24 really not at all of the view that the San Bruno fire is fair
25 game for this one.

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1 But go ahead, Ms. Morris.

2 MS. MORRIS: Sure. Thank you.

3 I think Your Honor is exactly right on the relevance
4 of this information. It's information that the debtors are
5 relying upon in how they're estimating the tort claims here for
6 '17 and '18. And it's relevant because it's the exact same
7 types of causes of action and damages that were occurring in
8 2015 are occurring here in '17 and '18.

9 And the bigger picture is that we are looking at maybe
10 a six-month window in which we need to estimate claims. The
11 debtors have been looking at this data set for months and
12 months. And they're using it to estimate claims and they're
13 referring to it in public filings and internal documents as the
14 source of how they're estimating the claims that they
15 aggregate. And it's even broken down by different categories
16 of losses, like, tree loss and emotional distress. These
17 documents are extremely relevant.

18 We are happy to brief the issue on the settlement
19 agreements and related documents themselves. But at least for
20 today -- and to put the TCC on the same footing as the debtors
21 and looking -- and starting to estimate plans and look at how
22 we're going to estimate claims in this expedited process, we
23 would ask that you order, at a minimum, that the debtors be
24 forced to produce their internal data spreadsheets -- and we
25 know they have them because we have them for a hundred or so of

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1 the Butte cases -- the internal spreadsheets that give the
2 settlement amounts in the aggregate, as well as their
3 allocation of those settlement amounts to various types of
4 claims, like, property loss, tree loss, emotional distress,
5 because that's exactly what they're referring to in their
6 estimation-related documents, and we should be given access to
7 the same thing. And then we can separately brief the issue, as
8 Mr. Orsini suggested, on the actual settlement agreements and
9 demands themselves, if Your Honor wishes.

10 There's over 2,800 people who settled these claims in
11 San Bruno and in Butte. Some of them are no longer living.
12 The plaintiffs' lawyers do not represent all 2,800 and they
13 can't consent on behalf of 2,800 people.

14 So Mr. Orsini's suggestion that we have to go back to
15 2,800 people is a nonstarter, and not only that, we contend
16 that it's not necessary under the relevant California law, but
17 we can brief that issue.

18 But at least for purposes of today, we'd ask that Your
19 Honor rule that they have to produce the spreadsheets that show
20 the settlement amounts with the allocations to the various
21 categories of the plan.

22 THE COURT: Mr. Orsini, are you willing to continue
23 your hat trick of roles here? Are you going to agree to that
24 spreadsheet?

25 MR. ORSINI: I would love to, Your Honor, but I can't

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1 because I don't believe it's a separate issue. It's the same
2 mediation-protected information just taken out of one document
3 and put into another. That doesn't change the fact that --

4 THE COURT: But what makes that document -- what makes
5 that internally and generated aggregate document privileged?
6 It's --

7 MR. ORSINI: Because the information contained in
8 the -- the information from the mediation itself is what is
9 protected from disclosure.

10 THE COURT: Well, how are you --

11 MR. ORSINI: And so it's not --

12 THE COURT: Well, how are you going to produce it at
13 trial? I mean, you're not going to have a trial --

14 MR. ORSINI: Well, Your Honor, that's where --

15 THE COURT: -- with only one side here, are you? No,
16 I mean --

17 MR. ORSINI: Well, no, we don't want to have one, Your
18 Honor.

19 THE COURT: Mr. Orsini --

20 MR. ORSINI: And that's --

21 THE COURT: -- if you've got twenty -- forget --
22 again, I'm going to put San Bruno aside. So Ms. Morris said
23 that there are 2,800 settlements. Let's assume there's some
24 large number lower than 2,800. So that means that there are
25 some numbers of settlement agreements. But all of those

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1 settlement agreements are considered in the aggregate and put
2 into a spreadsheet for you to say, our total exposure for
3 personal injury was this, and tree damage was that, and
4 property damage was that. What makes that spreadsheet or that
5 work product privileged? It's not.

6 MR. ORSINI: No, but there are two issues though, Your
7 Honor. Number one, with the spreadsheets that Ms. Morris is
8 talking about, we've provided aggregate numbers. But the
9 spreadsheet that she's talking about is breaking it down into
10 damages category, and then breaking it down further into
11 individual settlements. And the individual settlement level
12 information is protected by mediation privilege.

13 THE COURT: Does the spreadsheet --

14 MR. ORSINI: And also (indiscernible) --

15 THE COURT: Wait, hold on. Does the spreadsheet name
16 the claimants, the individuals?

17 MR. ORSINI: It does, Your Honor. It does, Your
18 Honor.

19 MS. MORRIS: Your Honor, if I could -- if I could
20 interject. We have one of those spreadsheets already and
21 they've redacted the identifying information for the claimant.
22 They produced a spreadsheet related to the 2015 San Bruno fire
23 and it redacts the --

24 THE COURT: No, 2015 --

25 MS. MORRIS: -- names of the claimants.

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1 THE COURT: 2015 --

2 MS. MORRIS: I'm sorry. I'm sorry 2000- --

3 THE COURT: -- Butte fire.

4 MS. MORRIS: Yeah, sorry. Thank you for the
5 clarification. The 2015 Butte fire and it redacts the
6 claimants' names but it's only for a hundred of those 2,800
7 settlements.

8 THE COURT: Okay.

9 MS. MORRIS: The one thing that they did redact was
10 their allocation of which amount goes to which bucket, which is
11 absolutely necessary here for the claims estimation process.

12 In addition, they've produced this information to the
13 SEC as part of the SEC's investigation. And so we contend,
14 Your Honor, that they can't selectively redact this information
15 and rely upon it for estimation and selectively redact it. And
16 so we've seen the version of the spreadsheet. Our request is
17 that they produce it, not just for a hundred, that they produce
18 it for all 2,800.

19 THE COURT: Okay. Again --

20 MS. MORRIS: And that the redactions that are not
21 identified redactions be removed.

22 THE COURT: Ms. Morris, again, I'm --

23 MR. ORSINI: Your Honor, if I may?

24 THE COURT: -- I'm not rolling over on San Bruno. So
25 I'm prepared, I think, to agree with you for Butte until Mr.

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1 Orsini tries to persuade me otherwise. But it seems to me
2 redacting the names of the individuals does not disclose what a
3 particular individual's claim was or what you settled with that
4 individual for because you don't tell who the individual is.
5 So what's wrong with that reasoning?

6 MR. ORSINI: So Your Honor, that may very well be
7 accurate reasoning, but I think that issue needs to be briefed
8 because it's not clear to me that California law supports that
9 outcome. And so all I'm asking is that the Court hear both --

10 THE COURT: But do you have any sense that why would
11 California do it? In other words, did PG&E, did you breach the
12 confidences of the mediation when you turned it over the SEC?

13 MR. ORSINI: No, Your Honor, because we did not
14 provide anything to the SEC that were not already -- that we
15 have not provided to the TCC in this context. They got the
16 same version of this spreadsheet that the SEC received.

17 THE COURT: Then give them --

18 MR. ORSINI: We made redactions --

19 THE COURT: Give them the same version of all the
20 spreadsheets then for Butte.

21 MR. ORSINI: We've said we will, Your Honor. We've
22 said we will.

23 THE COURT: Well.

24 MR. ORSINI: The SEC was focused, Your Honor, on one
25 particular -- or a couple of years' worth of disclosure. And

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1 so the more recent versions of the spreadsheet that cover later
2 years and more of the settlements, the SEC was not interested
3 in receiving.

4 So what we've said is, we will provide, in the same
5 redacted form, the updated years to the TCC. We've already
6 said we would do that.

7 What the real dispute here, Your Honor, is, is with
8 respect to the more detailed information with the offers, with
9 the agreements, with the responses, and that's the one that I
10 think Your Honor needs to be --

11 THE COURT: But I think I've --

12 MR. ORSINI: -- briefed, and there --

13 THE COURT: But I've agreed -- I'm agreeing with you
14 on that. But that's --

15 MR. ORSINI: No, I understand, Your Honor.

16 THE COURT: That's not relevant.

17 MR. ORSINI: I just wanted to make sure --

18 THE COURT: That's not, to me, if we were at a trial
19 and the issue -- look, for those of you that are not bankruptcy
20 lawyers, let me just give you Bankruptcy 101 here. We could
21 have an -- and leave aside whether it requires Article III or
22 not, that's not my point for what I'm making.

23 You could have an estimation trial with one claim.
24 You could have one individual who was injured by someone in
25 bankruptcy, but it's going to take years to determine the sum

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1 total of that person's injuries. But you would have to
2 estimate it to move under 502(c) -- for 502(c) to operate.

3 And so you wouldn't have a trial, you would have
4 something else, an estimation. What do you have to do to
5 estimate this individual? The person lost a leg. Okay. What
6 is the damages? This person suffered traumatic injury. What
7 are the projections? Well, this person suffered crippling
8 physical injury. What are the estimations? And it's an
9 estimation.

10 So when we multiply it by thousands, obviously, it
11 gets more complicated. But it's the same inquiry. It's not
12 the trial, it's the estimation of the liability.

13 So I'm inclined to -- of the opinion that, for
14 openers, anything that relates to any of the fires that we're
15 talking about, and the only thing we've talked about today in
16 calendar year 2015 is the one fire about Butte in Butte County.
17 I don't remember, going back to the hearing we had on the claim
18 deadline, whether there's some other fires that I've forgotten,
19 but you all know what fires are part of the aggregate label
20 California Wildfires. And we know that Ghost Ship is in that
21 label, San Bruno is not. And I'm not talking about the Ghost
22 Ship issue today.

23 So at least for today's purposes, without further
24 briefing, I'm inclined to say that the debtor will have to
25 produce, for the Butte 2015 fire, all the information that it's

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1 given to the SEC.

2 And for now, I'm not going to order them to produce
3 anything about the San Bruno fire because I'm not persuaded
4 that -- at this point, that the San Bruno fire explosion, and
5 what happened there, would be legally relevant at an estimation
6 trial for the 2015, '17, and '18 wildfires. That's not, and
7 I'll keep an open mind about it, but I'm doing this on the fly
8 today, and Ms. Morris, I'm not prepared to give that to you at
9 this point.

10 Now --

11 MS. MORRIS: Your Honor, could I just seek one
12 clarification of your order?

13 THE COURT: Yes.

14 MS. MORRIS: So Mr. Orsini said that the only
15 information they gave to the SEC are these hundred cases, a
16 spreadsheet that we already have. And it's a hundred of the
17 over 2,000 settlements from 2015.

18 I would request that you consider clarifying your
19 order to include all of the 2015 Butte settlements and include
20 all of the allocations that PG&E used to put the total
21 settlement amount into the different buckets of claims because
22 that's how they're using it for purposes of estimation.

23 THE COURT: Well, I --

24 MS. MORRIS: And to put everybody on the same playing
25 field, that's how we'd like to use it.

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1 THE COURT: Ms. Morris, I thought I was -- maybe you
2 did a better job of restating it. That's what I had in mind.

3 So Mr. Orsini, that's what I intend by this ruling.

4 MR. ORSINI: Your Honor, just to clarify, we have no
5 objection to providing additional spreadsheets that provide the
6 same level information that we provided to the SEC, which will
7 cover additional settlements for additional years.

8 What we do object to providing, on the basis of the
9 mediation privilege and the point I was getting to, there's
10 also attorney work product associated with it, the unredacting
11 that which was redacted to the SEC, we don't believe is
12 appropriate, and that needs to be further briefed if the
13 Court's going to order that issue.

14 THE COURT: No, I'm agreeing with you. I mean, I
15 don't know what this spreadsheet looks like. But if the
16 spreadsheet has Mr. X is the plaintiff, and you believe
17 disclosing his status or his, as it is, and it's in any way
18 relevant to -- I mean, it may be relevant -- it may be public
19 knowledge, he may have been a coplaintiff, it doesn't matter.
20 If it links up to something that PG&E has settled that should
21 be privileged, then I'm not changing that at this point.

22 But the allocation into the nature -- I mean, look, if
23 you say whatever the number is, 2,200, 25, you know better than
24 I the number of claims that are 2015 Butte fire settlements.
25 There is a spreadsheet that one could look at and determine

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lots of information, what kind of claims were settled and what were the aggregate amounts settled. It seems to me that is perfectly proper. And to me, the test here is, if you think you would have the -- you would be able to produce it at an estimation trial, clearly, they have to have it the same way. They, meaning TCC, but also the subrogation committee.

And certainly, it goes without saying, that the information that's provided to the SEC has to be given to those two groups as well. And I'm not asking for attorney-client -- excuse me, attorney work product. I'm not asking for specific disclosures that are, at this point, on this record today, were part of a settlement agreement.

If Ms. Morris is right that the settlement agreement on its face has an opening for disclosure elsewhere, let's find out. You've provided her, I take it, with specimens of settlement agreements, haven't you?

MS. MORRIS: No, we haven't Your Honor.

MR. ORSINI: We have not.

THE COURT: Well, but --

MR. ORSINI: But we can do that. We can do that.

THE COURT: You can blank out all the personal information on a settlement agreement and say this is the settlement agreement that was used, right? You could do that, can't you?

MR. ORSINI: Yes. I'm happy to share a specimen,

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1 sample settlement agreement with them so they can understand
2 what the language is, and we can talk with them about their
3 argument. There is something on the face of that settlement
4 agreement means it actually can be produced.

5 THE COURT: And Ms. Morris, I take your word that
6 there are a lot of victims of Butte fire who perhaps died,
7 perhaps are not accounted for, perhaps are not represented by
8 counsel. But you have access to a lot of those settlement
9 agreements that the very lawyers who are working with you, I'm
10 sure, can provide you with a check to look and compare what
11 they hold for their clients, vis a vis what Mr. Orsini and his
12 client makes available to you as the specimens. And the
13 message is, he better provide specimens of things that are
14 consistent with what have been produced. And I'm going to take
15 his word that he's going to do that. All right.

16 MS. MORRIS: Thank you, Your Honor. And I think that
17 will help. And just one last clarification, Your Honor. And
18 it may be that we don't even need to come back to you for the
19 actual agreements and the demands. I'll hold that in reserve
20 for further briefing if we get these spreadsheets in the manner
21 that Your Honor is producing them. But I would like to make
22 one clarification.

23 There are two types of redactions on these
24 spreadsheets. One is for claimant identifying information,
25 like their names, and we are in agreement with the debtors and

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1 with the Court that those should stay redacted.

2 There's a separate type of redaction and they're
3 redacting the allocation amounts. And I believe Mr. Orsini is
4 claiming that they're subject to work product.

5 And I would ask that Your Honor order that these be
6 produced without those redactions. The allocations are the
7 ones that say this claim settled at this dollar amount, and we
8 take this amount that goes to the emotional distress component,
9 this amount goes to the property loss component. Without that
10 information, Your Honor, the total dollar amount of the
11 settlement is no more information than we can get just from the
12 debtors' report as to what their total liability is.

13 THE COURT: Well --

14 MS. MORRIS: We absolutely need that information, and
15 PG&E's internal records make it clear that they're relying upon
16 that allocation and those specific dollar numbers to drive
17 their estimation numbers. So it's critical that we get that,
18 Your Honor.

19 THE COURT: Well, Mr. Orsini --

20 MS. MORRIS: And it may negate the need for the
21 settlement agreements themselves.

22 THE COURT: Mr. Orsini, let me ask you a question
23 since I presume -- were you personally involved in the 2015
24 settlements, or are there some other lawyers in your firm?

25 MR. ORSINI: No, I was not personally involved, Your

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1 Honor, and it's not my law firm.

2 THE COURT: Well, then maybe you can't answer the
3 question, but I'm sure you've seen them. So if you looked at a
4 settlement agreement with one of the victims, does that show an
5 allocation or does it have the usual --

6 MR. ORSINI: It does not.

7 THE COURT: -- recitals about so and so was injured,
8 or lost property and here's the settlement? So on the face of
9 the document, like you'd see in any settlement agreement, there
10 would be an assertion, you know, plaintiff contends A, B, C;
11 defendant denies A, B, C, but the parties settle for one
12 million dollars. It's probably more like that than a breakdown
13 of how much for the dog, and how much for the car, and how much
14 for the other components, right?

15 MR. ORSINI: You're right, Your Honor. I have looked
16 at a number of these contracts, a number of these settlement
17 agreements, and every one that I have seen has simply a lump
18 sum settlement amount. And the amounts that are then, for
19 internal purposes, allocated, including to inform further
20 settlement discussions that the attorneys were having, that's
21 done through an exercise of attorney work product.

22 THE COURT: Yeah, but --

23 MR. ORSINI: Now, there are other documents that are
24 subject to the mediation privilege that are exchanged between
25 the mediating parties that actually do break it down.

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1 THE COURT: No, but if --

2 MR. ORSINI: Claim demand letters --

3 THE COURT: But if there's a document that was used
4 internally at PG&E, perhaps for the future settlements in 2015,
5 I don't know why that would be privileged. In other words, I
6 don't know why, if it's work product -- it might be work
7 product, but it may be relevant here. I mean, does work
8 product mean privileged?

9 In other words, if somebody in your firm or the
10 company took Mr. X's million dollars and did some internal
11 calculation from other information and says, you know he had a
12 new car, and he had an old cow, and he had a broken down fence,
13 and he suffered crippling injuries, and these are the
14 components, that's an internal allocation, but I don't know why
15 it would be privileged. Why would it be privileged?

16 MR. ORSINI: Well, it's an internal allocation, Your
17 Honor, that's being done by lawyers for the purpose of
18 conducting further mediations and settlement discussions. So I
19 think it is absolutely protected attorney work product. And to
20 the extent that the Court is inclined to require the production
21 of the internal work product, we would ask to be able to submit
22 briefing on that issue.

23 THE COURT: Well, you can --

24 MR. ORSINI: That's an important issue.

25 THE COURT: -- have briefing on it, but again, we

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1 start with if you think you're going to get it into evidence as
2 part of your estimation, if your estimation is --

3 MR. ORSINI: I understand that part, Your Honor.

4 THE COURT: You know, it's a lost argument here. All
5 right. Let's defer on that one. Going back to --

6 MS. MORRIS: Your Honor, I would -- Your Honor, if I
7 could just respond briefly?

8 The debtors have already waived any privileges over
9 this information by using it in connection with estimations
10 that they're already doing in their SEC filings, and in
11 estimating claims in the aggregate of thirty billion. They
12 have to know how those settlement agreements break out between
13 the different categories in order to use them to estimate
14 claims. They intend to use those settlement agreements to
15 estimate claims in this case, and they've waived any privileges
16 associated with it.

17 And not only that, to claim privilege over some of the
18 information but not other information, to deny the tort
19 claimant the ability to evaluate and estimate claims in the
20 same exact manner that they've doing for months and months, is
21 just unfair and the selective waiver law in the Ninth Circuit,
22 I think should be factored in here. But they shouldn't be able
23 to claim work product protection, yet pick which information
24 they want to disclose and be able to use the redacted
25 information themselves while denying us the ability to do so.

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1 And so further briefing is going to further delay
2 this. It's critical information that we need to start
3 estimating these claims and to start the estimation
4 proceedings, and I would ask that Your Honor consider ordering
5 them to produce the charts that they've already agreed to
6 produce, but with the allocation to the different components,
7 as Your Honor stated before is absolutely relevant to
8 understanding this, that they be ordered to produce it today.

9 We can defer all arguments on San Bruno and on getting
10 the actual settlement agreements until later, but this is
11 critical information that we need to start looking at
12 estimation and to be on the same level playing field as the
13 debtors here.

14 THE COURT: Mr. Orsini, I'll state it differently. I
15 don't have to break it down into these elements. I'd say if
16 PG&E, either in this court or publicly, or in press releases,
17 or in SEC filings, or in filings before Judge Alsup or anywhere
18 else has said, we think our estimate of liability for this
19 particular fire or these fires is X, I think a fair
20 interrogatory would be, how did you get to X? And if the
21 answer is well, we can't tell you because it's privileged,
22 that's not a winning argument. Because if you -- again, we're
23 back to the point, if you're not going to explain it as a
24 matter of discovery, I'm not going to let you show it as a
25 matter of proof.

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1 So I think I'm going to go with what Ms. Morris argues
2 here, unless you believe this is a miscarriage of justice and
3 needs immediate briefing, then you better brief it quickly. So
4 let's leave that for now.

5 And Ms. Morris, the last item that was on my list,
6 when you were describing your buckets after we talked about
7 settlements in 2015 Butte, you then went to what's included in
8 the estimate. Generally, I presume, you're -- that means even
9 beyond Butte. So much of the last hour -- or half-an-hour,
10 we've been talking about, are things that, for reasons I
11 (indiscernible), maybe aren't even any more estimated claims,
12 they may be liquidated claims.

13 You want the same kind of information for the 2017 and
14 2018 fires, which I think for almost probably one hundred
15 percent are unliquidated except -- well, I presume they're
16 unliquidated except maybe the public settlement that PG&E
17 brought in with Butte County. That is one that's no longer
18 unliquidated. But otherwise, for individual claimants, do I
19 understand your argument correctly?

20 MS. MORRIS: No, I think the documents, specifically
21 that we were looking for, they are -- the SEC has opened an
22 investigation, that the debtors have disclosed in their public
23 filings, and the purpose of that investigation, as reported by
24 the debtors in their public filings, is that the SEC is seeking
25 information relating to the debtors' public disclosures and

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1 accounting for losses associated with the 2017 and 2018 wild
2 fires and the 2015 Butte fire.

3 And our request is simply that they be obligated to
4 produce the same information they're producing to the SEC to
5 the tort claimants. They said, in their response to Your
6 Honor's request for the pleadings that led to today's hearing,
7 that they're only producing that information to the extent it's
8 responsive to another request. And we would ask that Your
9 Honor order the debtors to produce it all, and not just
10 selectively pick what they want to produce as responsive to
11 other requests, given that the narrow focus of the SEC
12 investigation is exactly what we're talking here, which is
13 estimation of the 2017 and '18 wildfire liability.

14 THE COURT: Well, when you were describing your four
15 buckets, what I wrote down for number four, in your words -- I
16 won't quote you verbatim -- but your words were, there are two
17 sub-buckets and the first of the two was the settlement 2015
18 and 2020 San Bruno. And then the second one, I wrote, what was
19 used to estimate them, unless I misunderstood you.

20 So I'm not sure what you want me to order the debtor
21 to do now, beyond what we've just talked about. So I've stated
22 again -- forget --

23 MS. MORRIS: I -- I'm --

24 THE COURT: -- 2015 --

25 MS. MORRIS: Sure.

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1 THE COURT: We're past that. If I asked you --

2 MS. MORRIS: Yes.

3 THE COURT: -- to describe specifically what you want
4 me to tell Mr. Orsini he has to produce beyond that, just
5 restate it so we're on the same page.

6 MS. MORRIS: Sure. Any information upon which the
7 debtors rely to estimate fire claims exposure for 2017 and
8 2018, which would include anything they produced to the SEC in
9 response to their nearly identical requests for the debtors.

10 THE COURT: So it's, "which would include" which
11 means, therefore, anything else?

12 MS. MORRIS: Yes.

13 THE COURT: Okay.

14 MS. MORRIS: So it's everything beyond the settlement
15 agreements and documents that the debtors are using to estimate
16 their liability in which they've relied upon in their SEC
17 filings and other documents to estimate the aggregate of their
18 liability for 2017 and 2018 fires.

19 THE COURT: Okay. But what about if Mr. Orsini tells
20 me there's some privileged work product included there? What
21 do I do about that? He's entitled to protect that, isn't he?

22 MS. MORRIS: If they use it in connection with
23 estimating claims and public filings with the SEC or in public
24 statements made with this Court, then I would argue that it's
25 not privileged. And so I -- to the extent that it's their

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1 expert work product or whatever, they can certainly put that on
2 a privilege order for documents, produce a log identifying the
3 documents or stating that it's an expert work product. But to
4 the extent that they're relying upon that information to give a
5 public disclosure about the extent of their liabilities, I
6 would argue that that's not privileged or subject to any
7 protection.

8 THE COURT: Okay.

9 Mr. Orsini, you got the message here?

10 MR. ORSINI: Don't miss the fact, Your Honor, could --
11 I think a couple of issues are being confused here. With
12 respect to the SEC investigation, what we have told the TCC was
13 that if there are documents we've produced to the SEC that
14 relate to the estimates of liability for the 2017 and 2018
15 fires -- which is exactly the coverage of the document request
16 the TCC has already served -- we're producing them. So we're
17 producing those documents by subject to privilege, subject to
18 mediation confidentiality.

19 If there are other documents on other topics that we
20 have produced for the SEC, we're not agreeing to just give them
21 all of those documents because they've been given to the SEC.
22 If they can articulate a need and relevance to any other
23 documents on other topics, so be it; we can talk about those in
24 the context of discovery requests.

25 So I don't think there's really a dispute with respect

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1 to the SEC documents as Ms. Morris just articulated them. If
2 it's a document we produced to the SEC that relates to the 2017
3 and '18 wild fire claims liability estimates, those documents
4 have already been provided to the TCC in the same format they
5 were produced to the FCC.

6 Separately, with respect to documents that were
7 flagged either mediation privileged or attorney work product,
8 we have not produced those to the SEC, and we do not believe
9 that those tenure should be produced to the TCC even if they
10 were also used as part of public disclosure.

11 And that's an issue that, as I said, Your Honor, has
12 not been briefed. We believe that we're correct in the
13 California law, and we're happy to brief that quickly.

14 THE COURT: Well, Ms. Morris, I'm --

15 MS. MORRIS: Your Honor, that doesn't address the
16 question --

17 THE COURT: All right. Go ahead. I'm having trouble
18 keeping up with you.

19 MS. MORRIS: That doesn't --

20 THE COURT: Go ahead, Ms. Morris.

21 MS. MORRIS: That doesn't address the question of
22 whether if the debtors used documentation to support the
23 thirty-billion-dollar number that they put in their SEC filings
24 as what they're expecting their disclosure could be, not
25 inclusive of punitive damages and fines and other amounts.

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1 Whatever documents they relied upon to come up with that
2 number, they've waived the privilege over that.

3 So separate and apart from what they've produced to
4 the SEC, and whatever they're claiming as protection for the
5 SEC, they've waived any privilege when they relied upon those
6 documents and put down that thirty-billion-dollar number in
7 their SEC filing or to put that number in the filings they've
8 made in this Court or in public statements.

9 THE COURT: Okay. So to state it differently, if Mr.
10 Orsini said that you've been given what's been said to the SEC,
11 what you're saying is, if you said to the SEC that the estimate
12 is thirty million, what do you have to rely on making that
13 statement; and he's saying -- and you're saying he hasn't
14 produced that; is that correct, Ms. Morris? That is --

15 MS. MORRIS: That's right. We've gotten very limited
16 productions in that regard. And --

17 THE COURT: Okay.

18 MS. MORRIS: And he said that he would produce some
19 information, but he's also withholding a bunch of information
20 on privileged ground, and I would argue that they're not
21 privileged because he's relied upon them to make a public
22 disclosure --

23 THE COURT: Okay. I --

24 MS. MORRIS: -- as you know.

25 THE COURT: I guess I don't have enough of a sense to

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1 know that I -- which of you I agree with on whether there's a
2 waiver of the privilege. But the question is -- well, I don't
3 have an answer.

4 Mr. Orsini, is there -- you believe no waiver and
5 privilege when you tell the SEC that we estimate our
6 liabilities for the 2017 and '18 fires at thirty billion? I
7 mean, that -- again, we're back to the simple interrogatory:
8 what did you rely on to get the thirty billion? What's the
9 answer? If the only answer is, attorney work product, if
10 that's your answer, that's what I want to hear.

11 MR. ORSINI: Well, Your Honor, there are a lot of
12 public documents that were relied upon in coming up with those
13 figures. Those documents have been produced to the TCC. They
14 were produced both by us as well as in connection with the
15 whole Compass Lexecon STI issue that Your Honor probably
16 remembers.

17 THE COURT: Yep.

18 MR. ORSINI: The way to resolve -- the way to -- the
19 way that was resolved was an exchange of information -- public
20 information; that was the stipulated resolution there. So the
21 publicly available information, the documents, have been
22 produced.

23 There is also work product that was done by our
24 litigation consulting experts that further support the
25 thirty-billion-dollar number, and it is absolutely our view

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1 that that expert work product remains one hundred percent
2 protected by the work product doctrine.

3 THE COURT: Well, but --

4 MS. MORRIS: Your Honor, maybe I can make this simple
5 for you. Why don't we do this? the TCC is perfectly willing to
6 send the debtors a set of interrogatories asking them to
7 identify each and every document that they relied upon to come
8 up with those numbers. We would ask that they identify all
9 those documents and whether or not they're claiming a privilege
10 over those documents, and that Your Honor order them to respond
11 to that on an expedited basis, so that we can get to the
12 evidence matter, which is what are they withholding from us
13 that they're not giving to us which we don't even know what
14 that information is at this point.

15 THE COURT: Well, Ms. Morris, that might be the way to
16 approach it.

17 Mr. Orsini, I take it your statement -- your last
18 statement there was, you absolutely rely on the litigation
19 consultant's expert as privileged; I understand that. But you
20 could say -- you could name it on a privilege log, couldn't
21 you?

22 MR. ORSINI: I could name it on a privilege log, and
23 we can also identify, with specificity, the public documents
24 that were actually used to do these calculations, all of which
25 they already have.

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1 THE COURT: Okay. So it sounds to me that what your
2 representation is, that the universe of data to get to that
3 public -- I'm using the hypothetical thirty billion -- is a
4 combination of what's already been produced plus what would be
5 on the privilege log, but nothing else. Is that what I'm to
6 assume? Because if there's --

7 MR. ORSINI: I think that's -- I think that's --

8 THE COURT: If there's something else --

9 MR. ORSINI: I that's generally right, Your Honor.
10 (Indiscernible) --

11 THE COURT: If there's something else, then they're
12 entitled to it. Okay.

13 MR. ORSINI: No, no, I think that's right. I mean, I
14 would just state it slightly differently, which is that there
15 were public documents that were relied upon for this. There
16 was also expert work product by a litigation consultant to
17 interpret those public documents -- just like they can, just
18 like anybody else can. But the actual mechanism of doing that
19 analysis is what we believe is work product and that was part
20 of the agreed resolution of the Compass Lexecon issue.

21 And candidly, I wouldn't even know how to begin to log
22 all of the materials and all of the work that was done by a
23 litigation consultant; that would be highly unusual.

24 THE COURT: Well, I understand. It would be. I
25 don't --

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1 MS. MORRIS: The point here, though, is that if
2 they're -- regardless if they're using -- if they're using the
3 same litigation consultant for purposes of estimation trials,
4 and they're using the same litigation consultant for purposes
5 of estimating for the SEC filings, there's no privilege because
6 they're waiving the privilege by identifying that number in
7 connection with their SEC filings. The underlying documents
8 and analysis that they're using to come up with that
9 thirty-billion-dollar number is not privileged.

10 THE COURT: Well, all right. Ms. Morris, you've said
11 what you would inquire of. You make -- you'd expedite a
12 written interrogatory. Mr. Orsini can respond, and if his
13 response is all privileged, then that's the response.

14 And I'll -- I'm not going to make a decision without
15 it being briefed a little bit on this subject. I think we're
16 clear on the subject of mediation privileges different from
17 something else here. And there may be some information that
18 properly doesn't fall into what the expert has opined and what
19 is filed with the SEC, and PG&E should at least explain what it
20 is that might be in that category.

21 And I don't know what else I can do about it today. I
22 can't make a decision on a matter of this importance today.
23 I'd like to think we've made some progress in the last two
24 hours. Hopefully, we have.

25 MS. MORRIS: Your Honor, if I could just ask for one

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1 additional clarification? Our experience in working with the
2 debtors on discovery is that unless there's a motion to compel
3 or a deadline that is provided by Your Honor, that we don't get
4 all the information. And so I would ask that the spreadsheet
5 that Your Honor ordered earlier be produced in unredacted form,
6 that we give the debtors a timeline by which to produce that
7 information. We're fine with two weeks, and think that's
8 reasonable and more than sufficient time, given that they're
9 already relying upon this information, and ask that Your Honor
10 order that be produced within that time frame.

11 THE COURT: Two weeks from today is August 21st, Mr.
12 Orsini. Any problem with that?

13 MR. ORSINI: I obviously take exceptions -- I
14 obviously take exceptions, Your Honor, to Ms. Morris's
15 characterization of discovery history; I think that's
16 fundamentally false. But I have no objection to agreeing to
17 produce those spreadsheets within two weeks.

18 THE COURT: Okay.

19 Ms. Morris, your request is granted by your opponent.

20 All right. What else do we have --

21 MS. MORRIS: Thank you.

22 THE COURT: -- to deal with? All right. I'm going
23 to -- if there are other parties on the call or want to be
24 heard, I think I'm getting a little tired out, and my staff
25 here is, and probably a lot of you are. And I do think we made

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1 some progress, and if not, not.

2 So I will call it a day. I'm not going to try issue a
3 formal order. I couldn't actually do it. If TCC or the debtor
4 want to try to reduce this to a written order, I'll sign an
5 order that opposing counsel has agreed to as to form. I like
6 to think with the combination of the written transcript, the
7 audio upload, and everybody paying attention to this, that's
8 going to be adequate right now. If we have a disagreement and
9 we have to have a further hearing with somebody, a he said/she
10 said, then we have a record to rely on.

11 I want to thank you all for your time and effort and I
12 look forward to seeing some of you on Friday and many of you
13 next week. Thank you for your time today.

14 MR. ORSINI: Thank you, Your Honor.

15 MS. MORRIS: Thank you, Your Honor.

16 THE COURT: Thank you.

17 (Whereupon these proceedings were concluded at 11:43 PM)
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PG&E Corporation

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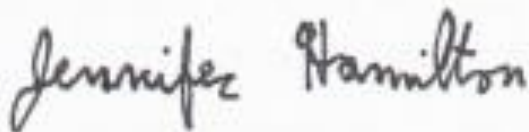
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Debtors ordered to produce requested
discovery to TCC on or before August 24,
2019.

99 19

C E R T I F I C A T I O N

I, Jennifer Hamilton, certify that the foregoing transcript is
a true and accurate record of the proceedings.



/s/ JENNIFER HAMILTON

eScribers

7227 N. 16th Street, Suite #207

Phoenix, AZ 85020

Date: August 8, 2019

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